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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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DIAGNOSTIC X-RAY SYSTEMS AND THEIR MAJOR COMPONENTS

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19607) to amend Part 78 by prescribing a performance standard applicable to the emission of x radiation from diagnostic x-ray systems for use on humans and to the following components which comprise such systems: Tube housing assemblies, x-ray controls, x-ray high-voltage generators, fluoroscopic imaging assemblies, tables, cradles, film changers, cassette holders, and beam-limiting devices.

Interested persons were given the opportunity to participate in the rule making through the submission of comments. Sixty days were allowed for public comment on the proposed rule making. Six petitions for extension of the review period were received, but were denied for the following reasons:

1. Manufacturers, user groups, State regulatory personnel, and others had been given an opportunity to review and comment on earlier drafts of the proposed standard several months prior to its publication in the FEDERAL REGISTER. These drafts were basically similar to the standard as it was finally published as a notice of proposed rule making.

2. By the time the petitions for extension were received, many comment letters had been received on the notice of proposed rule making, including letters from both foreign and domestic sources; this indicated that adequate time had been allowed.

3. The reasons cited by the petitioners for granting an extension were not considered to be of sufficient grounds to warrant further delay in promulgation.

Sixty-one letters commenting on the proposed standard were received. In general, the proposed standard was favorably received; many of the commenting letters anticipated that the controls described in the standard would lead to appreciable reduction in public exposure to radiation; very few of the commenting letters expressed opposition to such controls. The individual comments may be categorized into five general types:

1. Those which reflect general support or opposition to the standard or its provisions, but which do not suggest a specific response;

2. Those which reflect misunderstanding of the standard or its provisions;

3. Those which suggest or propose alternate means of achieving the desired degree of protection—means which, if accepted, would not increase the burden upon groups affected;

4. Those which suggest and propose changes which, if accepted, would substantially increase the burden imposed upon one or more groups affected; and

5. Those which suggest action that, if implemented, would not assure compliance with the radiation protection requirements of the Radiation Control for Health and Safety Act of 1968, hereafter referred to as "the Act."

Actions taken in response to comments can be briefly summarized as follows. The proposed standard was revised to clarify its intent and, where appropriate, to provide alternate means of achieving the same degree of radiation protection. Changes which would substantially increase the burden on any group subject to the standard were deferred for further study and consideration as early amendments to the standard, in order to provide opportunity for review with those groups who may be affected. Those suggestions which, if implemented, would reduce the degree of radiation protection provided were not accepted. Detailed descriptions of actions taken follow.

Several comments called attention to the need for additional definitions, raised questions regarding interpretation of specific provisions, or indicated that the reader had misinterpreted the intent of the proposed standard. In response to these comments, the text was revised to reflect more clearly the intent without substantially altering the requirements. Several points on which misinterpretation occurred, or questions were raised, are explained in detail below.

One area requiring clarification was the applicability of the term "assembler", i.e., to whom the term "assembler" applies (§ 78.213–1(b)(3)) and the identity of one who must file a "certification by assembler" (§ 78.213–1(d)).

The term "assembler" has been defined in the standard as anyone engaged in the business of assembly. It includes not only the commercial assembler, but also the owner of an x-ray system (such as a physician or hospital), whether he uses his own employees to perform the assembly or does it himself, so long as the assembled system is subsequently utilized in a professional or commercial capacity. It also includes a manufacturer's representative when he assembles an x-ray system for a fee. As stated in § 78.213–1(d), only those assemblers who install one or more certified components into an x-ray system or subsystem would be required to file a report. This interpretation of "assembler" is necessary to insure that only components of the type called for by the standard are installed, and that they are installed according to instructions of the component manufacturer whenever possible. Only in this way can compliance with the performance standard be obtained.

On the other hand, one who assembles, or modifies, certified components in an x-ray system without any form of compensation for so doing, and in circumstances where it is for personal use rather than for professional or commercial human diagnosis or visualization, would not be considered an "assembler."

Several comments questioned the need for assemblers to submit a report for each installation of a certified component into an x-ray system, and indicated that such reports duplicated reports already required.

The reporting requirements of § 78.213–1(d) are necessary to conform with section 358(h) of the Act, which requires that manufacturers of electronic products for which there are standards in effect under the Act certify that such products are in conformity to all applicable standards issued under the Act. One aspect of the manufacture of diagnostic x-ray equipment which differs from that of many other electronic products is that most units are not completely assembled at a factory, but generally are assembled at the place of use. Generally, the assembly procedures will affect the performance of the unit with regard to the standard. Therefore, the component manufacturer can only certify to a component's ability to function in an x-ray system in compliance with the standard when the system is properly assembled. The manufacturing process is not complete until the assembler has installed the component into the x-ray system. The assembler must, therefore, be considered one of the manufacturers and must certify that the assembly of the product is in accordance with the standard. Because of the large number of individual assemblies, the most practical means of certification of the assembly and enforcement of the standard is by means of a report, filed with the Department, the purchaser, and the appropriate State radiation control agency. The reports of certification by assemblers are not duplicating the reports required under §§ 78.730 and 78.731, which are intended to provide only records of the names and addresses of first purchasers. However, in those cases in which the assembler is able to install a required component in accordance with

the instructions of the component manufacturer, his report filed as required by § 78.213–1(d) would be considered a fulfillment of his certification and identification requirements under §§ 78.201 and 78.202.

In response to comment letters suggesting that copies of the assemblers' reports be sent to responsible State radiation control agencies, a provision was added to § 78.213–1(d) to require, where considered applicable, that assemblers send a copy of reports to the responsible State radiation control agency.

Responsibilities of manufacturers and assemblers were also clarified. Section 78.213–1(g) requires that manufacturers of components subject to certification provide to assemblers instructions for assembly, installation, adjustment, and testing of such components adequate to assure that the products will comply with applicable provisions of the standard when they are assembled, installed, adjusted, and tested as directed. Furthermore, these instructions are to include the specifications of other components which would be compatible with the component to be installed when compliance of the system or subsystem depends on such compatibility. Therefore, if an assembler were to install a certified component into an x-ray system containing other components with which it is not compatible, in that the other components do not meet the specifications for compatible components issued by the manufacturer pursuant to § 78.213–1(g), and as a result the compliance of this certified component is adversely affected, then the manufacturer of this component would not be liable for the noncompliance, as stated in § 78.213–1(f)(1). On the other hand, it is incumbent upon the certified component manufacturer to determine the specifications of compatible components and to provide installation instructions which take such components into account. He may elect either to list compatible components by manufacturer and model number, or provide a detailed technical description of compatible components, so long as installation instructions are provided which take into account the compatible components listed or described. The standard also requires the manufacturer to prescribe a schedule of the maintenance necessary to keep the equipment in compliance with the standard. It is the purchaser's responsibility to provide this maintenance to insure that the equipment continues to meet the requirements of the standard after installation.

Some comments raised questions with regard to Federal and State responsibilities in determining and enforcing compliance with the standard. Section 360F of the Act states: "Whenever any standard prescribed pursuant to section 358 with respect to an aspect of performance of an electronic product is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, any standard which is applicable to the same aspect of performance of such product and which is not identical to the Federal standard * * *"

Therefore, any State standard which applies to the same aspect of performance as the Federal standard and which is not identical to the Federal standard will be rendered null and void for new equipment on the effective date of the Federal standard. For equipment manufactured before the effective date of the Federal standard, however, the State requirements need not be identical to the Federal standard. Furthermore, a State which adopts the Federal standard as a State requirement could enforce its provisions as they may apply within its jurisdiction. Also, those elements of a State standard which apply to radiation control not applicable to the equipment performance would not be in conflict with section 360F.

The Food and Drug Administration is the organization within the Department of Health, Education, and Welfare which is responsible for the administration of the Federal standard as it applies to manufacturers and assemblers. In general, these responsibilities have been redelegated to the Bureau of Radiological Health, and that organization will be responsible for assessing compliance with the standard. The Bureau intends to carry out its responsibilities in cooperation with appropriate State agencies.

Questions were raised regarding the applicability of the standard to old equipment (components and systems manufactured prior to the effective date of the standard). Section 78.213–1(a)(2) has been revised to indicate clearly that x-ray systems shall be required to comply with provisions of the standard only as they relate to components certified in accordance with § 78.213–1(c) and installed into the system.

Several questions were raised regarding whether purchasers or users must obtain a variance prior to modifying x-ray equipment so that it no longer meets the standard. The purchaser who redesigns or modifies certified components in, or removes certified components from, an x-ray system would also be considered an assembler, hence a manufacturer, and thus must be authorized by a variance for changes which cause certified components in the system not to meet the standard. If he orders special, nonconforming equipment from a component manufacturer, the component manufacturer must also petition for a variance. There would be no need to obtain a variance to modify systems which are not to be used for diagnosis or visualization of humans, nor to perform routine repair or maintenance.

In response to the concern expressed by some State radiation control agency representatives, it is planned to solicit the views of the proper State agency, when appropriate, with respect to variance applications.

Questions were raised regarding the degree of accuracy required on numerical values specified in the standard. Where such values are stated, measurements or other figures related to them may be rounded off in accordance with common practice. For example, a coefficient of variation which falls between 0.045 and 0.054 would be considered to be 0.05, since the value in the standard is specified to only one significant figure.

The standard has also been changed in response to comments which indicated that alternate means of achieving the same degree of radiation protection might be preferable: *Provided*, That such alternate means could be developed: *And provided also*, That there was reasonable assurance that the change would not impose a substantial additional burden on groups affected. The major changes of this nature are discussed individually below.

Section 78.213–3(d) of the proposed standard, applicable to fluroscopic equipment, established an exposure rate limit of 5 roentgens per minute at the point where the useful beam enters the patient. The limit would apply except during recording of fluoroscopic images or when an optional high level control was actuated. In response to several comments suggesting alternatives, the requirement has been modified for fluorscopic equipment having intensifiers with automatic exposure controls. The revision would allow equipment having automatic exposure controls to have an entrance rate no greater than 10 roentgens per minute in lieu of an optional high level control. It is believed that this change will not significantly alter the degree of protection for the patient, yet will resolve technical problems for the manufacturer.

In the proposed standard, § 78.213–2(a)(3)(iii) specified milliampere-second (mAs) exposure limits for each of two ranges of tube potential. The standard has been modified to permit exposure limits to be based on kilowatt-seconds (kWs) as well, which should not lessen the degree of patient protection, and will permit a wider design option.

Section 78.213–1(h)(3) has been modified with respect to requirements for battery-operated equipment, and § 78.213–1(o) has been added to require visible indication of the state of charge of the battery.

Sections 78.213–1 (g) and (h) have been modified to require that component manufacturers provide assembler instructions and purchaser instruction manuals and other required informational material, not only to original assemblers or purchasers, but, at cost, to others upon request. This requirement is considered necessary to assure continued proper assembly, maintenance, and operation of x-ray equipment, even if resold.

Included in the comments were many constructive views which deserve careful consideration. In some cases, the comment or suggestion referred to requirements which were not included in the proposed standard. There were also suggestions for substantial modifications of one or more of the present provisions. The suggested changes included:

1. A proposal to state limits for line-voltage regulation and limits of maximum deviation of equipment performance when connected to adequate power sources;

2. Proposed performance requirements applicable to x-ray image receptor systems;

3. Additional protective requirements for dental x-ray equipment, such as open-ended cones, long exposure control cords, and rectangular collimation; and

4. Additional miscellaneous requirements such as: Scatter shields to protect operators of fluoroscopes, indication of field size on radiographs, indication of output of certain x-ray equipment in units of radiation exposure, and specific protective features for special purpose equipment (tomography, cystography).

Most of the proposed changes of this nature are not included in the standard as set forth below because of insufficient field or laboratory data either to determine the health significance of the changes or to arrive at the appropriate numerical limit or degree of restriction which should be imposed. For these reasons, the areas mentioned will be studied further in an attempt to arrive at an early decision concerning them. Those amendments found to be desirable will be treated in a manner similar to the original proposed standard; i.e., they will be submitted for review to manufacturers, users, and other interested groups, and to the statutory Technical Electronic Product Radiation Safety Standards Committee before publication as a notice of proposed rule making.

Several suggestions were not accepted on the grounds that they would have provided less asurance of achieving the radiation protection goals of the Act. These suggestions included:

1. Application of the standard only to x-ray equipment with high-potential and high frequency of use;

2. Relaxation of the requirements of the standard for positive x-ray beam limitation;

3. Relaxation of the requirements for reproducibility of radiation exposures, light field intensity, audible warning signals, maximum exposure limits, and standby radiation levels;

4. Application of the standard to x-ray component manufacturers but not to assemblers;

5. Exemption of certain special purpose equipment from parts of the standard; and

6. Promulgation of the standard in stages over a period of several years.

For convenience in referring to the standard and for consistency with other performance standards promulgated under 42 CFR Part 78, the three sections appearing in the proposed standard (§§ 78.213–1, 78.213–2, and 78.213–3) have been placed within the parent § 78.213. This single § 78.213 is cited when reference is made to the entire standard.

In accordance with the Federal Reports Act of 1942, the information and reporting requirements of § 78.213 have been approved by the Office of Management and Budget.

The Commissioner of Food and Drugs has determined that the standard is necessary for the protection of the public health and safety.

Therefore, pursuant to the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179; 42 U.S.C. 263f) and under authority delegated to the Commissioner of Food and Drugs, Part 78, Subpart C is amended by adding the following new section:

§ 78.213 Diagnostic x-ray systems and their major components.

This section incorporates the provisions of §§ 78.213–1, 78.213–2, and 78.213–3.

§ 78.213–1 General requirements.

(a) *Applicability.* The provisions of § 78.213 are applicable as specified herein to:

(1) The following components of diagnostic x-ray systems which are manufactured after August 15, 1973: Tube housing assemblies, x-ray controls, x-ray high-voltage generators, fluoroscopic imaging assemblies, tables, cradles, film changers, cassette holders, and beam-limiting devices; and

(2) Diagnostic x-ray systems incorporating one or more of such components; however, such x-ray systems shall be required to comply only with those provisions of § 78.213 which relate to the components certified in accordance with paragraph (c) of this section and installed into the systems.

(b) *Definitions.* As used in § 78.213, the following definitions apply:

(1) "Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

(2) "Aluminum equivalent" means the thickness of aluminum (type 1100 alloy)[1] affording the same attenuation, under specified conditions, as the material in question.

(3) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

(4) "Attenuation block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of type 1100 aluminum alloy or aluminum alloy having equivalent attenuation.

(5) "Automatic exposure control" means a device which automatically controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation.

(6) "Beam axis" means a line from the source through the centers of the x-ray fields.

(7) "Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field.

[1] The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper. "Aluminum Standards and Data," The Aluminum Association, New York, N.Y. (1969).

(8) "Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations. It is estimated using the following equation:

$$C=\frac{s}{\bar{X}}=\frac{1}{\bar{X}}\left[\sum_{i=1}^{n}\frac{X_i-\bar{X}^2}{n-1}\right]^{\frac{1}{2}}$$

where

s=Estimated standard deviation of the popuation.

$\bar{X}$=Mean value of observations in sample.

Xi=ith observation in sample.

n=Number of observations in sample.

(9) "Control panel" means that part of the x-ray control upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for manually setting the technique factors.

(10) "Cooling curve" means the graphical relationship between heat units stored and cooling time.

(11) "Diagnostic source assembly" means the tube housing assembly with a beam-limiting device attached.

(12) "Diagnostic x-ray system" means an x-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization.

(13) "Equipment" means x-ray equipment.

(14) "Exposure" means the quotient of dQ by dm where dQ is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass dm are completely stopped in air.

(15) "Field emission equipment" means equipment which uses an x-ray tube in which electron emission from the cathode is due solely to the action of an electric field.

(16) "Fluoroscopic imaging assembly" means a component which comprises a reception system in which x-ray photons produce a fluoroscopic image. It includes equipment housings, electrical interlocks if any, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly.

(17) "General purpose radiographic x-ray system" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(18) "Half-value layer, HVL" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(19) "Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.

(20) "Leakage radiation" means radiation emanating from the diagnostic source assembly except for:

(i) The useful beam and
(ii) Radiation produced when the exposure switch or timer is not activated.

(21) "Leakage" technique factors" means the technique factors associated with the tube housing assembly which are used in measuring leakage radiation. They are defined as follows:

(i) For capacitor energy storage equipment, the maximum rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger.

(ii) For field emission equipment rated for pulsed operation, the maximum rated number of x-ray pulses in an hour for operation at the maximum rated peak tube potential.

(iii) For all other equipment, the maximum rated continuous tube current for the maximum rated peak tube potential.

(22) "Light field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(23) "Line-voltage regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential; that is,

Percent line-voltage regulation=$100(V_n - V_l/V_l)$

where:

V_n=No-load line potential and
V_l=Load line potential.

(24) "Maximum line current" means the rms current in the supply line of an x-ray machine operating at its maximum rating.

(25) "Peak tube potential" means the maximum value of the potential difference across the x-ray tube during an exposure.

(26) "Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation exposure for protection purposes.

(27) "Rated line voltage" means the range of potentials, in volts, of the supply line specified by the manufacturer at which the x-ray machine is designed to operate.

(28) "Rated output current" means the maximum allowable load current of the x-ray high-voltage generator.

(29) "Rated output voltage" means the allowable peak potential, in volts, at the output terminals of the x-ray high-voltage generator.

(30) "Rating" means the operating limits specified by the manufacturer.

(31) "Recording" means producing a permanent form of an image resulting from x-ray photons (e.g., film, video tape).

(32) "Response time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero sufficient to provide a steady state midscale reading.

(33) "Source" means the focal spot of the x-ray tube.

(34) "Source-image receptor distance, (SID)" means the distance from the source to the center of the input surface of the image receptor.

(35) "Stationary equipment" means equipment which is installed in a fixed location.

(36) "Technique factors" means the conditions of operation. They are specified as follows:

(i) For capacitor energy storage equipment, peak tube potential in kv. and quantity of charge in mAs.

(ii) For field emission equipment rated for pulsed operation, peak tube potential in kv. and number of x-ray pulses.

(iii) For all other equipment, peak tube potential in kv. and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(37) "Tubes" means an x-ray tube, unless otherwise specified.

(38) "Tube housing assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when they are contained within the tube housing.

(39) "Tube rating chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(40) "Useful beam" means the radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.

(41) "Variable-aperture beam-limiting device" means a beam-limiting device which has capacity for stepless adjustment of the x-ray field size at a given SID.

(42) "Visible area" means that portion of the input surface of the image receptor over which incident x-ray photons produce a visible image.

(43) "X-ray control" means a device which controls input power to the x-ray high-voltage generator and/or the x-ray tube. It includes equipment which controls the technique factors of an x-ray exposure.

(44) "X-ray equipment" means an x-ray system, subsystem, or component thereof.

(45) "X-ray field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(46) "X-ray high-voltage generator" means a device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices, and other appropriate elements.

(47) "X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(48) "X-ray subsystem" means any combination of two or more components of an x-ray system for which there are requirements specified in § 78.213.

(49) "X-ray tube" means any electron tube which is designed for the conversion of electrical energy into x-ray energy.

(c) *Certification of components.* Each component subject to § 78.213 shall be certified by the manufacturer thereof as a product which meets all applicable standards in accordance with the provisions of § 78.201. Certification that the product conforms to all applicable standards under this subpart shall be construed to mean that the component can meet the applicable provisions of § 78.213 if installed in a diagnostic x-ray system in accordance with instructions.

(d) *Certification by assembler.* An assembler who installs one or more components certified as required by paragraph (c) of this section into an x-ray system shall install certified components that are of the type required by § 78.213–2 or § 78.213–3 and, except as provided for in subparagraph (2) of this paragraph, shall assemble, install, adjust, and test the certified components in accordance with the instructions of their respective manufacturers. All assemblers who install certified components shall file a report of such assembly as specified in subparagraphs (1) and (2) of this paragraph. The report shall be construed as the assembler's certification and identification under §§ 78.201 and 78.202. All assembler reports shall be on a form prescribed by and available from the Director, Bureau of Radiological Health, 12720 Twinbrook Parkway, Rockville, MD 20852. Completed reports shall be submitted to the Director, the purchaser, and, where applicable, to the State agency responsible for radiation protection, within 15 days following completion of the assembly.

(1) *Reporting compliance.* An assembler who installs one or more certified components into an x-ray system or subsystem, having properly followed the assembly instructions provided him by the component manufacturer, shall certify to this by filing a report containing the information prescribed on the form which shall include the following:

(i) The full name and address of the assembler and the date of assembly or installation.

(ii) The name and address of the purchaser and the location and specific identification of the x-ray system or subsystem.

(iii) An affirmation that all instruction manuals and other information as

required by paragraph (h) of this section applicable to the newly installed x-ray equipment have been delivered to the purchaser.

(iv) A statement of the type and intended use of the x-ray system or subsystem into which the certified components were assembled or installed, such as "radiographic—stationary general purpose."

(v) A list of all certified components which were assembled or installed by him into the x-ray system or subsystem in accordance with the instructions of the component manufacturers, identifying the components by type, manufacturer, model number, and serial number.

(vi) An affirmation that the certified components listed pursuant to subdivision (v) of this subparagraph were assembled according to the instructions provided by the manufacturer(s) of such components.

(vii) An affirmation that all certified components installed in the x-ray system or subsystem were of the type required by § 78.213–2 or § 78.213–3.

(viii) An affirmation that a copy of this report will be transmitted to the purchaser and, where applicable, to the State agency responsible for radiation protection, in accordance with the requirements of this paragraph.

(2) *Reporting noncompatibility.* An assembler who installs a certified component into an x-ray system shall file a report indicating noncompatibility if he is unable to follow the instructions of the manufacturer of such certified component, provided other component(s) of the system do not meet the manufacturer's specifications for compatibility as given by the certified component manufacturer pursuant to paragraph (g) of this section and provided there is no commercially available certified component of a similar type which is compatible with the x-ray system. In addition, the component(s) of the system not meeting the specification for compatibility must either be of a type listed in paragraph (a) (1) of this section which does not bear a certification label due to date of manufacture, or if it is a component not of the type listed in paragraph (a) (1) of this section, it must have been purchased as new prior to August 15, 1973. No assembler shall perform any modification of a certified component which will adversely affect the performance of the certified component with respect to the requirements of § 78.213. The assembler shall file a report indicating noncompatibility containing information prescribed on the form which shall include the following:

(i) The full name and address of the assembler and the date of assembly or installation.

(ii) The name and address of the purchaser and the location and specific identification of the x-ray system or subsystem.

(iii) An affirmation that all instruction manuals and other information as required by paragraph (h) of this section applicable to the newly installed x-ray equipment have been delivered to the purchaser.

(iv) A statement of the type or intended use of the x-ray system or subsystem into which the certified components were assembled or installed, such as "radiographic—stationary general purpose."

(v) A list of all certified component(s) which were assembled or installed by him into the x-ray system or subsystem and which could not be assembled, installed, adjusted, and tested in accordance with the manufacturer's instructions due to reasons specified in this subparagraph (this paragraph(d) (2)), identifying the components by type, manufacturer, model number, and serial number.

(vi) An affirmation that the certified component(s) listed pursuant to subdivision (v) of this subparagraph could not be assembled, installed, adjusted, and tested in accordance with the installation instructions of their respective manufacturers due to reasons specified in this subparagraph (this paragraph (d) (2)), and that no certified component was modified so as to adversely affect its performance with respect to the requirements of § 78.213.

(vii) For each certified component listed pursuant to subdivision (v) of this subparagraph, a full and complete explanation of why the manufacturer's installation instructions could not be followed in performing the assembly, including a listing by type, manufacturer, and model number of the incompatible component(s) already in the system, and either evidence of its date of purchase as new if it is not a type of component listed in paragraph (a) (1) of this section, or if it is a type of component listed in paragraph (a) (1) of this section, a statement that it did not bear a certification label due to its date of manufacture.

(viii) An affirmation that all certified components installed in the x-ray system or subsystem were of the type required by § 78.213–2 or § 78.213–3.

(ix) An affirmation that a copy of this report will be transmitted to the purchaser and, where applicable, to the State agency responsible for radiation protection, in accordance with the requirements of this paragraph.

(e) *Identification of x-ray components.* In addition to the identification requirements specified in § 78.202, manufacturers of components subject to § 78.213, except high-voltage generators contained within tube housings, and beam-limiting devices which are integral parts of tube housings, shall permanently inscribe or affix thereon the model number and serial number of the product, so as to be legible and accessible to view.

(1) *Tube housing assemblies.* In a similar manner, manufacturers of tube housing assemblies shall also inscribe or affix thereon the name of the manufacturer, model number, and serial number of the x-ray tube which the tube housing assembly incorporates.

(2) *Replacement of tubes.* The replacement of an x-ray tube in a previously manufactured tube housing assembly shall constitute manufacture of a new tube housing assembly and the manufacturer shall be subject to the provisions of subparagraph (1) of this paragraph. The manufacturer shall remove, cover, or deface any previously affixed inscriptions, tags, or labels which are no longer applicable.

(f) *Limits of responsibility.*—(1) *Manufacturer.* The manufacturer of a certified component installed or assembled into an x-ray system or subsystem by another person shall not be liable for the noncompliance of such component which is attributable solely to the improper installation or assembly of the component into the system, but shall be held responsible for noncompliance if improper assembly was a result of inadequate instructions provided by such component manufacturer.

(2) *Assembler.* The person who certified as to the assembly of an x-ray system or subsystem shall not be liable for noncompliance of a certified component if such assembly is in accordance with the instructions provided by the manufacturer of the component, but shall be held responsible for noncompliance of a component which is attributable solely to improper assembly or installation into the system or subsystem.

(g) *Information to be provided to assemblers.* Manufacturers of components listed in paragraph (a) (1) of this section shall provide to assemblers subject to paragraph (d) of this section and, upon request, to others at a cost not to exceed the cost of publication and distribution, instructions for assembly, installation, adjustment, and testing of such components adequate to assure that the products will comply with applicable provisions of § 78.213 when assembled, installed, adjusted, and tested as directed. Such instructions shall include specifications of other components compatible with that to be installed when compliance of the system or subsystem depends on their compatibility. Such specifications may describe pertinent physical characteristics of the components and/or may list by manufacturer model number the components which are compatible.

(h) *Information to be provided for users.* Manufacturers of x-ray equipment shall provide for purchasers and, upon request, to others at a cost not to exceed the cost of publication and distribution, manuals or instruction sheets which shall include the following technical and safety information:

(1) *All x-ray equipment.* For x-ray equipment to which § 78.213 is applicable, there shall be provided:

(i) Adequate instructions concerning any radiological safety procedures and precautions which may be necessary because of unique features of the equipment and

(ii) A schedule of the maintenance necessary to keep the equipment in compliance with § 78.213.

(2) *Tube housing assemblies.* For each tube housing assembly, there shall be provided:

(i) Statements of the maximum rated peak tube potential, leakage technique factors, the minimum filtration permanently in the useful beam expressed as millimeters of aluminum equivalent, and

the peak tube potential at which the aluminum equivalent was obtained;

(ii) Cooling curves for the anode and tube housing; and

(iii) Tube rating charts.

If the tube is designed to operate from different types of x-ray high-voltage generators (such as single-phase self-rectified, single-phase half-wave rectified, single-phase full-wave rectified, three-phase six pulse, three-phase 12 pulse, constant potential, capacitor energy storage) or under modes of operation such as alternate focal spot sizes or speeds of anode rotation which affect its rating, specific identification of the difference in ratings shall be noted.

(3) *X-ray controls and generators.* For the x-ray control and associated x-ray high-voltage generator, there shall be provided:

(i) A statement of the rated line voltage and the range of line-voltage regulation for operation at maximum line current;

(ii) A statement of the maximum line current of the x-ray system based on the maximum input voltage and current characteristics of the tube housing assembly compatible with rated output voltage and rated output current characteristics of the x-ray control and associated high-voltage generator. If the rated input voltage and current characteristics of the tube housing assembly are not known by the manufacturer of the x-ray control and associated high-voltage generator, he shall provide necessary information to allow the purchaser to determine the maximum line current for his particular tube housing assembly(s);

(iii) A statement of the technique factors that constitute the maximum line current condition described in subdivision (ii) of this subparagraph;

(iv) In the case of battery-powered generators, a specification of the minimum state of charge necessary for proper operation;

(v) Generator rating and duty cycle;

(vi) A statement of the maximum deviation from the indication given by labeled control settings and/or meters during any exposure when the equipment is connected to a power supply as described in accordance with this paragraph. In the case of fixed technique factors, the maximum deviation from the nominal fixed value of each factor shall be stated; and

(vii) A statement defining the measurement basis (or bases) upon which the exposure time, peak tube potential, tube current, and/or other technique factors are stated pursuant to subdivisions (iii) and (vi) of this subparagraph.

(4) *Variable-aperture beam-limiting device.* For each variable-aperture beam-limiting device, there shall be provided:

(i) Specifications of tube housing assemblies for which the device is designed or is compatible with respect to the requirements of paragraph (k) of this section and §§ 78.213–2(d) and (e); and

(ii) A statement including the minimum aluminum equivalent of that part of the device through which the useful beam passes and including the x-ray tube potential at which the aluminum equivalent was obtained. When two or more filters are provided as part of the device, the statement shall include the aluminum equivalent of each filter.

(i) *Variances.*—(1) *Criteria for variances.* Upon application by a manufacturer (including assembler), the Director, Bureau of Radiological Health, may grant a variance from one or more provisions of § 78.213 applicable to any diagnostic x-ray system, subsystem, or component when he determines that the granting of such variance is in keeping with the purposes of the Act and that the requested variance:

(i) Is designed to have identifiable technical advantages and is to be used either as a prototype or experimental equipment for clinical evaluation, or

(ii) Is required for obtaining diagnostic information not obtainable with equipment meeting all the requirements of § 78.213, or

(iii) Utilizes alternate means for providing protection at least equal to that provided by equipment which conforms to § 78.213.

(2) *Applications for variances.* Applications for variances shall be submitted to the Director, Bureau of Radiological Health, Food and Drug Administration, 12720 Twinbrook Parkway, Rockville, Md. 20852, and shall include the following information:

(i) A description of the product and its intended use,

(ii) An explanation of how compliance with § 78.213 would restrict this intended use,

(iii) A description of the manner in which it is proposed to deviate from the requirements of § 78.213,

(iv) A description of the advantages to be derived from such deviation,

(v) An explanation of how alternate means of protection will be provided,

(vi) The number of units the applicant wishes to manufacture and/or for what period of time it is desired that the variance be in effect, and

(vii) In the case of prototype or experimental equipment, the proposed location of each unit.

(3) *Administration of variances.* (i) Written notification will be provided by the Director, Bureau of Radiological Health, to the manufacturer of the granting or refusal of a variance. Notification of an approved variance will state the number of units for which the variance is approved and/or the termination date of the variance. Variances will be identified by a number and date of issuance.

(ii) A public file of approved variances and information related to pending actions will be maintained by the Director, Bureau of Radiological Health, and, where applicable, affected State radiation regulatory authorities will be notified of action with respect to variances. Information containing trade secrets will be administered in accordance with the provisions of section 360A(e) of the Act.

(iii) After reasonable notice to the manufacturer and opportunity for a hearing, the variance will be withdrawn if the Director, Bureau of Radiological Health, deems that such withdrawal is necessary to protect the public health.

(iv) In the event that the Director, Bureau of Radiological Health, determines that an imminent public health hazard is presented by the continuation of a variance, he shall immediately withdraw such variance after due notification to the manufacturer. Such withdrawal shall not prejudice a manufacturer's opportunity for a hearing following the withdrawal.

(4) *Certification of equipment covered by variance.* The manufacturer of any diagnostic x-ray equipment for which a variance is granted shall modify the tag, label, or other certification required by § 78.201, § 78.202, or § 78.213 to state:

(i) That the item is in conformity with § 78.213 except with respect to those characteristics covered by the variance;

(ii) That the item is in conformity with the provisions of the variance; and

(iii) The assigned number of the variance and date assigned.

(j) *Warning label.* The control panel containing the main power switch shall bear the warning statement, legible and accessible to view: "Warning: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed."

(k) *Leakage radiation from the diagnostic source assembly.* The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source shall not exceed 100 milliroentgens in 1 hour when the x-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(l) *Radiation from components other than the diagnostic source assembly.* The radiation emitted by a component other than the diagnostic source assembly shall not exceed 2 milliroentgens in 1 hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(m) *Beam quality.*—(1) *Half-value layer.* The half-value layer (HVL) of the useful beam for a given x-ray tube potential shall not be less than the values shown in Table I.

TABLE 1

Design operating range (Kilovolts peak)	Measured potential (Kilovolts peak)	Half-value layer (Millimeters of aluminum)
Below 50	30	0.3
	40	0.4
	49	0.5
50 to 70	50	1.2
	60	1.3
	70	1.5
Above 70	71	2.1
	80	2.3
	90	2.5
	100	2.7
	110	3.0
	120	3.2
	130	3.5
	140	3.8
	150	4.1

If it is necessary to determine such half-value layer at an x-ray tube potential which is not listed in Table I, linear interpolation or extrapolation may be made. Positive means[2] shall be provided to insure that at least the minimum filtration needed to achieve the above beam quality requirements is in the useful beam during each exposure.

(2) *Measuring compliance.* For capacitor energy storage equipment, compliance shall be determined with the maximum quantity of charge per exposure.

(n) *Aluminum equivalent of material between patient and image receptor.* The aluminum equivalent of each of the items listed in Table II, which are used between the patient and image receptor, shall not exceed the indicated limits. Compliance shall be determined by x-ray measurements made at a potential of 100 kilovolts peak and with an x-ray beam which has a half-value layer of 2.7 millimeters of aluminum. This requirement is applicable to front panel(s) of cassette holders and film changers provided by the manufacturer for purposes of patient support and/or to prevent foreign object intrusions. It does not apply to such items as a screen and its associated mechanical support panel or grids.

TABLE II

Item	Aluminum equivalent (millimeters)
Front panel(s) of cassette holder (total of all)	1.0
Front panel(s) of film changer (total of all)	1.0
Stationary tabletop	1.0
Moveable tabletop (including stationary subtop)	1.5
Cradle	2.0

(o) *Battery charge indicator.* On battery-powered generators, visual means shall be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation.

§ 78.213–2 Radiographic equipment.

The provisions of this section apply to equipment for the recording of images, except those involving use of an image intensifier.

(a) *Control and indication of technique factors.*—(1) *Visual indication.* The technique factors to be used during an exposure shall be indicated before the exposure begins, except when automatic exposure controls are used, in which case the technique factors which are set prior to the exposure shall be indicated. On equipment having fixed technique factors, this requirement may be met by permanent markings. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by the fluoroscopist.

(2) *Timers.* Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor.

(i) Except during serial radiography, the operator shall be able to terminate the exposure at any time during an exposure of greater than one-half second. Termination of exposure shall cause automatic resetting of the timer to its initial setting or to zero. It shall not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.

(ii) During serial radiography, the operator shall be able to terminate the x-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(3) *Automatic exposure controls.* When an automatic exposure control is provided:

(i) Indication shall be made on the control panel when this mode of operation is selected;

(ii) When the x-ray tube potential is equal to or greater than 50 kVp, the minimum exposure time for field emission equipment rated for pulsed operation shall be equal to or less than a time interval equivalent to two pulses and the minimum exposure time for all other equipment shall be equal to or less than 1/60 second or a time interval required to deliver 5 mAs, whichever is greater;

(iii) Either the product of peak x-ray tube potential, current, and exposure time shall be limited to not more than 60 kWs per exposure or the product of x-ray tube current and exposure time shall be limited to not more than 600 mAs per exposure except when the x-ray tube potential is less than 50 kVp in which case the product of x-ray tube current and exposure time shall be limited to not more than 2000 mAs per exposure; and

(iv) A visible signal shall indicate when an exposure has been terminated at the limits described in subdivision (iii) of this subparagraph, and manual resetting shall be required before further automatically timed exposures can be made.

(4) *Accuracy.* Deviation of technique factors from indicated values shall not exceed the limits given in the information provided in accordance with § 78.213–1(h)(3).

(b) *Reproducibility.* The following requirements shall apply when the equipment is operated on an adequate power supply as specified by the manufacturer in accordance with the requirements of § 78.213–1(h)(3):

(1) *Coefficient of variation.* For any specific combination of selected technique factors, the estimated coefficient of variation of radiation exposures shall be no greater than 0.05.

(2) *Measuring compliance.* Determination of compliance shall be based on 10 consecutive measurements taken within a time period of 1 hour. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation shall be within ±1 of the mean value for all measurements. In the case of automatic exposure controls, compliance shall be determined with the attenuation block placed in the primary beam, and the technique factors shall be such as to provide individual exposures of a minimum of 12 pulses on field emission equipment rated for pulsed operation or no less than one-tenth second per exposure on all other equipment.

(c) *Linearity.* The following requirement applies when the equipment allows a choice of x-ray tube current settings and is operated on a power supply as specified by the manufacturer in accordance with the requirements of § 78.213–1(h)(3) for any fixed x-ray tube potential within the range of 40 percent to 100 percent of the maximum rated.

(1) *Average exposure ratios.* The average ratios of exposure to the indicated milliampere-seconds product (mR/mAs) obtained at any two consecutive tube current settings shall not differ by more than 0.10 times their sum. This is:

$|\bar{X}_1 - \bar{X}_2| \leq 0.10\ (\bar{X}_1 + \bar{X}_2)$; where $\bar{X}_1$ and $\bar{X}_2$ are the average mR/mAs values obtained at each of two consecutive tube current settings.

(2) *Measuring compliance.* Determination of compliance will be based on 10 exposures at each of two consecutive x-ray tube current settings made within 1 hour. The percent line-voltage regulation shall be determined for each measurement. All values for percent line-voltage regulation at any one combination of technique factors shall be within ±1 of the mean value for all measurements at these technique factors. Where tube current selection is continuous, $\bar{X}_1$ and $\bar{X}_2$ shall be obtained at current settings differing by no greater than a factor of 2.

(d) *Field limitation and alignment for mobile and stationary general purpose x-ray systems.* Except when spot-film devices are used, mobile and stationary general purpose radiographic x-ray systems shall meet the following requirements:

(1) *Variable x-ray field limitation.* There shall be provided a means for stepless adjustment of the size of the x-ray field. The minimum field size at an SID of 100 centimeters shall be equal to or less than 5 by 5 centimeters.

(2) *Visual definition.* (i) Means shall be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the x-ray field along either the length or width of the visually defined field shall not exceed 2 percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.

(ii) When a light localizer is used to define the x-ray field, it shall provide an average illumination of not less than 160 lux (15 footcandles) at 100 centimeters or at the maximum SID, whichever is less. The average illumination

[2] In the case of a system which is to be operated with more than one thickness of filtration, this requirement can be met by a filter interlock with the kilovoltage selector which will prevent x-ray emission if the minimum required filtration is not in place.

shall be based upon measurements made in the approximate center of each quadrant of the light field.

(iii) The edge of the light field at 100 centimeters or at the maximum SID, whichever is less, shall have a contrast ratio, corrected for ambient lighting, of not less than 4 in the case of beam-limiting devices designed for use on stationary equipment, and a contrast ratio of not less than 3 in the case of beam-limiting devices designed for use on mobile equipment. The contrast ratio is defined as I_1/I_2 where I_1 is the illumination 3 millimeters from the edge of the light field toward the center of the field; and I_2 is the illumination 3 millimeters from the edge of the light field away from the center of the field. Compliance shall be determined with a measuring aperture of 1 millimeter.

(e) *Filed limitation and alignment on stationary general purpose x-ray equipment.* Except when spot-film devices are used, stationary general purpose x-ray systems shall meet the following requirements in addition to those prescribed in paragraph (d) of this section:

(1) *Field indication and alignment.* (i) Means shall be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, to align the center of the x-ray field with respect to the center of the image receptor to within 2 percent of the SID, and to indicate the SID to within 2 percent;

(ii) The beam-limiting device shall numerically indicate the field size in the plane of the image receptor to which it is adjusted;

(iii) Indication of field size dimensions and SID's shall be specified in inches and/or centimeters, and shall be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor which correspond to those of the image receptor to within 2 percent of the SID when the beam axis is perpendicular to the plane of the image receptor; and

(iv) Compliance measurements will be made at discrete SID's and image receptor dimensions in common clinical use (such as SID's of 36, 40, 48, and 72 inches and nominal image receptor dimensions of 5, 7, 8, 9, 10, 11, 12, 14, and 17 inches) or at any other specific dimensions at which the beam-limiting device or its associated diagnostic x-ray system is uniquely designed to operate.

(2) *Positive beam limitation.* (i) Means shall be provided for positive beam limitation which will, at the SID for which the device is designed, either cause automatic adjustment of the x-ray field in the plane of the image receptor to the image receptor size within 5 seconds after insertion of the image receptor or, if adjustment is accomplished automatically in a time interval greater than 5 seconds or is manual, will prevent production of x-rays until such adjustment is completed. At SID's at which the device is not intended to operate, the device shall prevent the production of x-rays.

(ii) The x-ray field size in the plane of the image receptor, whether automatically or manually adjusted, shall be such that neither the length nor the width of the x-ray field differs from that of the image receptor by greater than 3 percent of the SID and that the sum of the length and width differences without regard to sign be no greater than 4 percent of the SID when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor.

(iii) The radiographic system shall be capable of operation, at the discretion of the operator, such that the field size at the image receptor can be adjusted to a size smaller than the image receptor. The minimum field size at a distance of 100 centimeters shall be equal to or less than 5 by 5 centimeters. Return to positive beam limitation as defined in subdivisions (i) and (ii) of this subparagraph shall occur upon a change in image receptor.

(iv) Positive beam limitation may be bypassed when radiography is conducted which does not use the cassette tray or permanently mounted vertical cassette holder, or when either the beam axis or table angulation is not within 10° of the horizontal or vertical during any part of the exposure, or during stereoscopic radiography. If the bypass mode is provided, return to positive beam limitation shall be automatic.

(v) A capability may be provided for overriding positive beam limitation in the event of system failure or to perform special procedures which cannot be performed in the positive mode. If so provided, a key shall be required to override the positive mode. It shall be impossible to remove the key while the positive mode is overriden.

(f) *Field limitation on radiographic x-ray equipment other than general purpose radiographic systems.*—(1) *Equipment for use with intraoral image receptors.* Radiographic equipment designed for use with an intraoral image receptor shall be provided with means to limit the x-ray beam such that:

(i) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the x-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 7 centimeters; and

(ii) If the minimum SSD is less than 18 centimeters, the x-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 6 centimeters.

(2) *X-ray systems designed for one image receptor size.* Radiographic equipment designed for only one image receptor size at a fixed SID shall be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID.

(3) *Other x-ray systems.* Radiographic systems not specifically covered in paragraphs (d), (e), of this section, subparagraph (2) of this paragraph and paragraph (g) of this section, and systems covered in subparagraph (1) of this paragraph which are designed for use with extraoral as well as intraoral image receptors shall be provided with means to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than 2 percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor. In addition, means shall be provided to align the center of the x-ray field with the center of the image receptor to within 2 percent of the SID. These requirements may be met with:

(i) A system which performs in accordance with paragraphs (d) and (e) (1) of this section; or, when alignment means are also provided, may be met with either:

(ii) An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed (each such device shall have clear and permanent markings to indicate the image receptor size and SID for which it is designed); or

(iii) A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

(g) *Field limitation and alignment for spot-film devices.* When a spot-film device is used, the following requirements shall apply:

(1) Means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot-film selector. Such adjustment shall be automatically accomplished except when the x-ray field size in the plane of the film is smaller than that of the selected portion of the film.

(2) The total misalignment of the edges of the x-ray field with the respective edges of the selected portion of the image receptor along the length or width dimensions of the x-ray field in the plane of the image receptor, when adjusted for full coverage of the selected portion of the image receptor, shall not exceed 3 percent of the SID. The sum without regard to sign of the misalignment along any two orthogonal dimensions shall not exceed 4 percent of the SID.

(3) It shall be possible to adjust the x-ray field size in the plane of the film to a size smaller than the selected portion of the film. The minimum field size, at the greatest SID, shall be equal to or less than 5 by 5 centimeters.

(4) The center of the x-ray field in the plane of the film shall be aligned with the center of the selected portion of the film to within 2 percent of the SID.

(h) *Source-skin distance.* (1) X-ray systems designed for use with an intraoral image receptor shall be provided

with means to limit source-to-skin distance to not less than:

(i) Eighteen centimeters if operable above 50 kilovolts peak, or

(ii) Ten centimeters if not operable above 50 kilovolts peak.

(2) Mobile or portable x-ray systems other than dental shall be provided with means to limit source-to-skin distance to not less than 30 centimeters.

(i) *Beam-on indicators.* The x-ray control shall provide visual indication whenever x-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(j) *Multiple tubes.* Where two or more radiographic tubes are controlled by one exposure switch, the tube or tubes which have been selected shall be clearly indicated prior to initiation of the exposure. This indication shall be both on the x-ray control and at or near the tube housing assembly which has been selected.

(k) *Standby radiation from capacitor energy storage equipment.* Radiation emitted from the x-ray tube when the exposure switch or timer is not activated shall not exceed a rate of 2 milliroentgens per hour at 5 centimeters from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters. The response time of the (radiation measuring) instrument system shall be no less than 3 and no greater than 20 seconds.

§ 78.213–3 Fluoroscopic equipment.

The provisions of this section apply to equipment for fluoroscopy and for the recording of images through an image intensifier.

(a) *Primary protective barrier.*—(1) *Limitation of useful beam.* The entire cross section of the useful beam shall be intercepted by the primary protective barrier of the fluoroscopic image assembly at any SID. The fluoroscopic tube shall not produce x-rays unless the barrier is in position to intercept the entire useful beam. The exposure rate due to transmission through the barrier with the attenuation block in the useful beam combined with radiation from the image intensifier, if provided, shall not exceed 2 milliroentgens per hour at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate.

(2) *Measuring compliance.* The entrance exposure rate shall be measured in accordance with paragraph (d) of this section. The exposure rate due to transmission through the primary barrier combined with radiation from the image intensifier shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters. If the source is below the tabletop, the measurement shall be made with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop. If the source is above the tabletop and the SID is variable, the measurement shall be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters. Movable grids and compression devices shall be removed from the useful beam during the measurement. For all measurements, the attenuation block shall be positioned in the useful beam 10 centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

(b) *Field limitation*—(1) *Nonimage-intensified fluoroscopy.* The x-ray field produced by nonimage-intensified fluoroscopic equipment shall not extend beyond the entire visible area of the image receptor. Means shall be provided to permit further limitation of the field. The minimum field size at the greatest SID shall be equal to or less than 5 by 5 centimeters.

(2) *Image-intensified fluoroscopy.* For image-intensified fluoroscopic equipment the total misalignment of the edges of the x-ray field with the respective edges of the visible area of the image receptor along any dimension of the visually defined field in the plane of the image receptor shall not exceed 3 percent of the SID. The sum, without regard to sign, of the misalignment along any two orthogonal dimensions intersecting at the center of the visible area of the image receptor shall not exceed 4 percent of the SID. For rectangular x-ray fields used with circular image receptors, the error in alignment shall be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor. Means shall be provided to permit further limitation of the field. The minimum field size, at the greatest SID, shall be equal to or less than 5 by 5 centimeters.

(c) *Activation of tube.* X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the operator for the entire time of any exposure. When recording serial fluoroscopic images, the operator shall be able to terminate the x-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

(d) *Entrance exposure rate limits*—(1) *Equipment with automatic exposure rate control.* Fluoroscopic equipment which is provided with automatic exposure rate control shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 10 roentgens per minute at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high level control is provided. When so provided, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5 roentgens per minute at the point where the center of the useful beam enters the patient unless the high level control is activated. Special means of activation of high level controls, such as additional pressure applied continuously by the operator, shall be required to avoid accidental use. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(2) *Equipment without automatic exposure rate control.* Fluoroscopic equipment which is not provided with automatic exposure rate control shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5 roentgens per minute at the point where the center of the useful beam enters the patient, except:

(i) During recording of fluoroscopic images, or

(ii) When an optional high level control is activated.

Special means of activation of high level controls, such as additional pressure applied continuously by the operator, shall be provided to avoid accidental use. A continuous signal audible to the fluoroscopist shall indicate that the high level control is being employed.

(3) *Measuring compliance.* Compliance with this paragraph (d) (3) shall be determined as follows:

(i) If the source is below the table, exposure rate shall be measured 1 centimeter above the tabletop or cradle.

(ii) If the source is above the table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(iii) In a C-arm type of fluoroscope, the exposure rate shall be measured 30 centimeters from the input surface of the fluoroscopic imaging assembly.

(e) *Indication of potential and current.* During fluoroscopy and cinefluorography x-ray tube potential and current shall be continuously indicated. Deviation of x-ray tube potential and current from the indicated values shall not exceed the maximum deviation as stated by the manufacturer in accordance with § 78.213–1(h) (3).

(f) *Source-skin distance.* Means shall be provided to limit the source-skin distance to not less than 38 centimeters on stationary fluoroscopes and to not less than 30 centimeters on mobile fluoroscopes. In addition, for image-intensified fluoroscopes intended for specific surgical application that would be prohibited at the source-skin distances specified in this paragraph, provisions may be made for operation at shorter source-skin distances but in no case less than 20 centimeters. When provided, the manufacturer must set forth precautions with respect to the optional means of spacing, in addition to other information as required in § 78.213–1(h).

(g) *Fluoroscopic timer.* Means shall be provided to preset the cumulative on-time of the fluoroscopic tube. The maximum cumulative time of the timing device shall not exceed 5 minutes without resetting. A signal audible to the fluoroscopist shall indicate the completion of any preset cumulative on-time. Such signal shall continue to sound while x-rays are produced until the timing device is reset.

(h) *Mobile fluoroscopes.* In addition to the foregoing requirements of this § 78.213–3, mobile fluoroscopes shall provide intensified imaging.

Effective date. This order shall become effective on August 15, 1973.

(Sec. 358, 82 Stat. 1177–79; 42 U.S.C. 263f)

Dated: July 31, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-12311 Filed 8-14-72;8:45 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

Subpart D—Food Additives Permitted in Food for Human Consumption

SIMAZINE

A petition (FAP 1H2572) was filed by Geigy Chemical Corp. (now Ciba-Geigy Corp.), Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of food additive tolerances for the herbicide simazine (2 - chloro - 4,6-bis(ethylamino)-*s*-triazine) (21 CFR Part 121) in or on sugarcane byproducts (sugar, sirup, and molasses) at 1 part per million resulting from the application of the herbicide to the growing sugarcane. Subsequently, the petitioner amended the petition by withdrawing the proposed tolerance on sugar. (For a related document, see this issue of the FEDERAL REGISTER, page 16495.)

Simazine qualifies both as a pesticide chemical and a food additive, as defined by the Federal Food, Drug, and Cosmetic Act (sec. 201 (q) and (s), 68 Stat. 511, 72 Stat. 1784, 21 U.S.C. 321 (q) and (s)).

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346, 346a, and 348).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that residues of simazine in sugarcane byproducts (molasses and sirup) will not exceed the proposed tolerances under the conditions set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 121 is amended by adding the following new section to Subpart C:

§ 121.340 Simazine.

A tolerance of 1 part per million is established for residues of the herbicide simazine (2-chloro-4,6-bis(ethylamino)-*s*-triazine) in the sugarcane byproduct molasses intended for animal feed, resulting from application of the herbicide to the growing crop sugarcane.

Part 121 is also amended by the addition of the following new section to Subpart D:

§ 121.1243 Simazine.

A tolerance of 1 part per million is established for residues of the herbicide simazine (2-chloro-4,6-bis(ethylamino)-*s*-triazine) in sugarcane byproducts (molasses and sirup), resulting from application of the herbicide to the growing crop sugarcane.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (8–15–72).

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: August 3, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-12853 Filed 8-14-72;8:49 am]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 10]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas, and Quota Deficits for 1972

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the "Act." The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Sugar Act of 1948, as amended, provides in part that "The Secretary shall, at the time he makes his determination of requirements of consumers for each calendar year and on December 15 preceding each calendar year, and as often thereafter as the facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether, * * * any area or country will not market the quota for such area or country."

On the basis of current beet sugar inventories and estimated 1972 crop beet sugar production, the beet area will be unable to market their current 1972 quota of 3,500,000 short tons, raw value, and maintain adequate yearend inventories. An additional deficit of 100,000 short tons, raw value, therefore, is hereby declared for the beet area. Since the Republic of the Philippines has notified the Department that it will be unable to supply its share of any additional sugar deficit in 1972, the entire deficit is herein prorated to Western Hemisphere countries.

In amendment 9 of this Part 811 (37 F.R. 12217) the total quotas established for the Bahamas and Bolivia were inadvertently determined to be deficits. This amendment establishes quotas for the Bahamas and Bolivia of 61 and 54 tons respectively since these quantities were marketed under bond for refining and storage in 1971 and charged to their respective quotas on January 1, 1972. Therefore, deficits previously determined in the quotas for the two countries are reduced by similar quantities.

It is hereby determined that deficits previously declared and declared herein constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby

amended by amending §§ 811.11, 811.12, and 811.13 as follows:

1. Section 811.11 is amended by amending paragraph (a) to read as follows:

§ 811.11 Quotas for domestic areas.

(a) (1) For the calendar year 1972 domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act, in column (1) and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act in column (2) as follows:

Area	Quotas	Direct-consumption limits
	(1)	(2)
	(Short tons, raw value)	
Domestic beet sugar	3,692,000	No limit
Mainland cane sugar	1,643,000	No limit
Hawaii	1,218,238	38,646
Puerto Rico	855,000	166,500

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1972 the Domestic Beet Sugar Area and Puerto Rico will be unable by 292,000 and 680,000 short tons, raw value, respectively, to fill the quotas established for such areas in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

* * * * *

2. Section 811.12 is amended by amending paragraph (a) to read as follows:

§ 811.12 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic Beet Sugar area, 292,000; Puerto Rico, 680,000; Bahamas, 23,667; Bolivia, 5,659; and Uganda, 15,252. The deficits for the domestic areas and Western Hemisphere countries totaling 1,001,326 tons are reallocated by allocating 275,741 tons to the Republic of the Philippines, providing a special allocation of 21,507, 17,950, and 4,415 tons to Costa Rica, Guatemala, and Honduras, respectively, and prorating the remainder to Western Hemisphere quota countries on the basis of quotas, determined under section 202 of the Act, except such prorations to the West Indies, Panama, and Haiti are limited so that total quotas for each country will not exceed 206,788, 43,500, and 29,812 tons, respectively. The deficit in the quota for Uganda of 15,252 tons is reallocated by allocating 30.08 percent to the Republic of the Philippines and prorating the remainder on the basis of quotas determined under section 202 of the Act to Eastern Hemisphere quota countries, except Ireland.

* * * * *

3. Section 811.13 is amended by amending paragraph (c) to read as follows:

§ 811.13 Quotas for foreign countries.

* * * * *

(c) For the calendar year 1972, the prorations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. Deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). New deficit prorations established herein are shown in column (4). Total quotas and prorations are shown in column (5).

Countries	Basic quotas	Temporary quotas and prorations pursuant to Sec. 202(d) [1]	Previous deficits and deficit prorations	New deficit prorations	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	(Short tons, raw value)				
Dominican Republic	423,768	141,713	129,395	23,42	715,275
Mexico	372,699	125,323	114,434	20,720	632,572
Brazil	362,887	122,223	111,004	20,207	618,926
Peru	259,674	87,403	79,801	14,460	441,438
West Indies	122,425	45,614	25,749	0	206,788
Ecuador	53,578	18,046	16,478	2,933	91,035
Argentina	50,291	16,940	15,467	2,800	85,498
Costa Rica	45,291	15,278	35,757	2,526	98,922
Colombia	44,783	15,057	13,748	2,430	75,968
Panama	27,949	9,411	6,140	0	43,500
Nicaragua	42,483	14,231	13,041	2,301	72,086
Venezuela	40,439	13,617	12,434	2,252	68,733
Guatemala	23,787	13,004	29,879	2,160	83,890
El Salvador	23,238	9,522	8,034	1,574	43,053
British Honduras	22,352	7,520	6,874	1,215	33,000
Haiti	20,370	6,894	2,000	0	29,812
Bahamas	17,729	5,976	−23,725	61	61
Honduras	7,883	2,657	6,841	449	17,827
Bolivia	4,273	1,449	−5,713	54	54
Paraguay	4,273	1,449	1,314	223	7,265
Australia	165,063	41,632	3,857	0	210,797
Republic of China	68,699	17,428	1,636	0	87,763
India	69,060	16,799	1,544	0	84,403
South Africa	46,676	11,861	1,091	0	59,628
Fiji Islands	36,157	9,183	845	0	46,190
Mauritius	24,324	6,181	569	0	31,074
Swaziland	24,324	6,181	569	0	31,074
Thailand	15,129	3,843	343	0	19,316
Uganda	12,162	3,090	−15,252	0	0
Malagasy Republic	9,891	2,596	220	0	12,597
Ireland	5,351	0	0	0	5,351
Total	2,473,242	792,660	636,259	100,000	3,962,001

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

* * * * *

(Secs. 204 and 403; 61 Stat. 925, as amended, and 932; and 7 U.S.C. 1114 and 1153)

Effective date. This action determines an additional deficit in the quota for the beet area of 100,000 tons and prorates such deficit to Western Hemisphere quota countries. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable, and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on August 7, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-12742 Filed 8-9-72;11:28 am]

[Sugar Reg. 814.10]

PART 814—ALLOTMENT OF SUGAR QUOTAS, MAINLAND CANE SUGAR AREA

1972 Quotas

Basis and purpose. This allotment order is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 926, as amended), hereinafter called the "Act" for the purpose of allotting the 1972 sugar quota for the Mainland Cane Sugar Area among persons who process sugar from sugarcane and market such sugar for consumption in the continental United States.

Section 205(a) of the Act requires the Secretary to allot a quota whenever he finds that the allotment is necessary among other things: (1) To prevent disorderly marketing of sugar or liquid sugar; and (2) to afford all interested persons an equitable opportunity to market sugar or liquid sugar. Section 205(a) also requires that such allotment be made after such hearing and upon such notice as the Secretary may prescribe.

Pursuant to the applicable rules of practice and procedure a preliminary finding was made that allotment of the quota is necessary and a notice was published on March 17, 1972 (37 F.R. 5625), of a public hearing to be held in New Orleans, La., at the Whitney Building,

Room 300, on April 14, 1972, beginning at 10 a.m. local time, for the purpose of receiving evidence to enable the Secretary (1) to affirm or revoke the preliminary finding of necessity for allotments, (2) to establish a fair, efficient, and equitable allotment of the 1972 quota for the Mainland Cane Sugar Area, (3) to revise or amend the allotment of the quota for the purposes of (a) allotting any increase or decrease in the quota, (b) prorating any deficit in the allotment for any allottee when written notification of release by an allottee of any part of an allotment becomes a part of the official records of the Department, and (c) substituting revised or corrected data where such data becomes a part of the official records of the Department, and (4) to make provision for transfer and exchange of allotments.

The hearing was held at the place and time specified in the notice and testimony was given with respect to all of the issues referred to in the hearing notice. In arriving at the findings, conclusions, and regulatory provisions of this order, all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining thereto.

Omission of the recommended decision and effective date. The record of the hearing shows that the supply of sugar available for marketing is in excess of the quota of 1,643,000 tons and that 1972 marketings of mainland cane sugar, unless restricted, would exceed the 1972 quota for the Mainland Cane Sugar Area. The proceeding to which this order relates was instituted for the purpose of alloting the quota for the Mainland Cane Sugar Area to prevent disorderly marketing and to afford each interested person an equitable opportunity to market sugar within the quota for the area. In view of the need for allotments, it is imperative that processors know as soon as possible the approximate quantity of sugar each may market within the quota during the balance of the year in order to plan marketings and prevent disorderly marketing that could occur if the effective date of the allotment order is unduly delayed. Accordingly, in order to fully effectuate the purposes of section 205(a) of the Act it is hereby found that due and timely execution of the functions imposed upon the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision in this proceeding. It is also hereby further found and determined for the reasons given above for the omission of a recommended decision that compliance with the 30-day effective date requirement of 5 U.S.C. 553 (80 Stat. 378) is impractical and contrary to the public interest, and consequently, this order shall become effective when published in the FEDERAL REGISTER.

Basis for findings and conclusions. Section 205(a) of the Act reads in pertinent parts as follows:

* * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such person to market or import that portion of such quota or proration thereof alloted to him. * * * The Secretary is also authorized in making such allotments of a quota for any calendar year to take into consideration in lieu of or in addition to the foregoing factors of processing, past marketings, and ability to market, the need for establishing an allotment which will permit such marketing of sugar as is necessary for the reasonably efficient operation of any nonaffiliated single plant processor of sugar beets or any processor of sugarcane and as may be necessary to avoid unreasonable carryover of sugar in relation to other processors in the area: *Provided*, That * * * marketing allotment of a processor of sugarcane shall not be increased under this provision above an allotment equal to the effective inventory of sugar of such processor on January 1, of the calendar year for which such allotment is made: * * * *Provided further*, That the total increases in marketing allotments made pursuant to this sentence * * * to processors in the mainland cane sugar areas shall be limited to 16,000 short tons of sugar, raw value, for each calendar year. In making such allotments, the Secretary may also take into consideration and make due allowance for the adverse effect of drought, storm, flood, freeze, disease, insects, or other similar abnormal and uncontrollable conditions seriously and broadly affecting any general area served by the factory or factories of such person. * * *

The record of the hearing indicated that the prospective supply of mainland cane sugar available for marketing in 1972 exceeds the quota for that area to an extent that allotment of the quota is necessary (R. 6).

The Government witness introduced for the record annual data on processings, marketings, and inventories for the most recent 5-year period (R. 6, Ex. 5).

The three factors of "processings," "past marketings," and "ability to market," the adverse effect of storm, freeze, and other similar abnormal conditions have been considered by the allotment method herein adopted as set forth in finding 4.

The allotment method adopted herein is the same as that proposed at the hearing by the Government witness except that any revision in allotments that may be necessary to give effect to an increase or decrease in the Mainland Cane Sugar Area quota will be determined by the full application of the formula as proposed by the witnesses for the processors. The Government witness proposed that such revisions be made on the basis of allotments in effect which would have made revised allotments easier and faster to compute. The witness for the processors expressed a preference for the procedure for revising allotments adopted herein, since such a procedure had been used in past years.

The Government witness proposed that the factor "processings from proportionate shares" should be measured for each processor by the higher of either its production of sugar from 1971 crop sugarcane or 103 percent of his average production from the 1969 and 1970 crops of sugarcane in short tons, raw value, expressed as a percentage of the total of the measure for all processors and weighted by 60 percent. The primary purpose for using an alternative measure of "processings" (103 percent of his average production from the 1969 and 1970 crops of sugarcane), is to give protection against a crop failure or some other unavoidable occurrence which reduced processings of the crop used for the measure of processings.

Giving consideration to "past marketings" by using the average annual marketings for each processor for the 3-year period 1969 through 1971 and giving this factor a weighting of 20 percent in determining allotments contributes to an orderly rate of change in the marketings of each processor relative to others. Measuring the factor "ability to market" as herein adopted and giving this factor a weighting of 20 percent in determining allotments gives recognition to the sugar produced from 1971 crop sugarcane which each processor will have available for marketing within the 1972 quota and also recognizes the relative sharing of each processor in past new-crop marketings within the quota.

The allotment method adopted herein differs from recent past allotment methods in that no provision is made to aid processors who have unreasonable carryover of sugar. Such provision would not be applicable in the computation of 1972 allotments due to lower processor inventory levels.

An allotment of 25 short tons, raw value, is established herein for Louisiana State University as proposed by the witnesses representing mainland sugarcane processors.

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) The quantity of sugar available for marketing in 1972, consisting of January 1, 1972, effective inventories of mainland cane sugar of 867,182 tons plus 1972 crop sugar produced before January 1, 1972, of between 950,000 and 1,050,000 tons would substantially exceed the current 1,643,000-ton quota established for the area.

(2) The supply situation makes necessary the allotment of the 1972 sugar quota for the Mainland Cane Sugar Area to assure an orderly marketing of sugar, and to afford all interested persons equitable opportunities to market sugar within the quota.

(3) Twenty-five short tons, raw value, shall be set aside from the quota, and an allotment of 25 short tons, raw value, shall be established for the Louisiana State University.

(4) The remainder of the 1972 Mainland Cane Sugar Area quota for consumption within the continental United States, after setting aside 25 tons as provided in finding (3) shall be allotted to processors other than Louisiana State

University by measuring and weighting each of the three factors of "processing," "past marketings," and "ability to market" specified in section 205(a) of the Act; and by determining allotments as follows based on data in the hearing record and any revised or corrected final data of which official notice will be taken:

(a) The factor "processings from proportionate shares," shall be measured for each processor by the higher of either his production of sugar from 1971 crop sugarcane in short tons, raw value, or 103 percent of his average crop-year production from the 1969 and 1970 crops of sugarcane in short tons, raw value, expressed as a percentage of the total of the measure for all processors and weighted by 60 percent.

(b) The factor "past marketings" shall be measured for each processor by his average annual quota marketing for the years 1969 through 1971 in short tons, raw value, expressed as a percentage of the total of the measure for all processors and weighted 20 percent.

(c) The factor "ability to market" shall be measured by the sum of (i) each processor's January 1, 1972, effective inventory, and (ii) his share of the difference between the 1972 quota in short tons, raw value, for the Mainland Cane Sugar Area after deducting 25 tons set aside under finding (3) and the total of the effective inventories of all processors. Each processor's share of such difference shall be determined by applying to the area total difference the percentage that his average 1969 through 1971 new-crop marketings were of the total average new-crop marketings of all processors for such years. The sum of (i) and (ii) in short tons, raw value, expressed for each processor as a percentage of the total of the measure for all processors shall be weighted 20 percent.

(d) To determine each processor's allotment in short tons, raw value, the total percentage for each processor derived by measuring and weighting the three factors as heretofore proposed shall be multiplied by the quota for the Mainland Cane Sugar Area in short tons, raw value, less 25 tons set aside under finding (3).

(e) Any revision in allotments made to give effect to any increase or decrease in the Mainland Cane Sugar Area quota shall be determined by the full application of the formula for determining allotments as provided in paragraphs (a) through (d) of this finding (4).

(f) Any revision in allotments made to give effect to a release of all or a part of an allotment by an allottee shall be determined by prorating such release or deficit to all other allottees to the extent they are able to market additional sugar on the basis of allotments as determined pursuant to preceding paragraphs of this finding (4).

(5) Final adjustments in the data for the 1971 crop including January 1, 1972, effective inventories, were made on the basis of sugar production and marketing reports covering the period ending April 30, 1972.

(6) Talisman Sugar Corp. shall succeed to the interest in the historical data, pertinent to determining allotments of the former allottee, Florida Sugar Corp.

(7) The quantities of sugar and the percentages referred to in finding (4) and the computation of processor allotments are set forth in the following table:

Processor	Processings of sugar [1]		Average quota marketings [2]		Ability to market					Processor's allotment [4]	
						New crop quota marketings		Measures used			
	Short tons, raw value	Percent of total	Short tons, raw value	Percent of total	Effective Inventory Jan. 1, 1972 [3]	Average 1969–1971	Shares of difference [4]	Col. (5) plus Col. (7)	Percent of total	Percent of total	Short tons, raw value
						Short tons, raw value					
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Albania Sugar Co.	9,906	0.797	10,459	0.849	2,600	6,161	17,831	19,831	1.207	0.823	14,590
Alma Plantation, Ltd.	10,631	.856	11,322	.919	2,894	6,878	17,012	19,576	1.210	.938	15,411
J. Aron & Co., Inc.	15,404	1.240	16,077	1.292	5,228	8,691	25,124	30,352	1.813	1.372	22,542
Billeaud Sugar Factory	12,148	.978	13,327	1.071	2,451	7,125	20,707	23,228	1.416	1.084	17,810
Breaux Bridge Sugar Co-op.	10,650	.857	11,225	.902	6,330	3,109	8,973	15,324	.933	.851	14,475
Wm. T. Burton Industry, Inc.	7,446	.599	7,562	.608	2,452	4,141	11,985	14,437	.879	.657	10,794
Caire & Graugnard	7,311	.588	6,459	.521	4,293	2,609	7,622	11,725	.714	.660	9,853
Cajun Sugar Co-op, Inc.	25,144	2.023	23,762	2.151	18,039	2,828	8,387	27,036	1.648	1.974	32,432
Caldwell Sugar Co-op, Inc.	18,451	1.485	17,093	1.387	10,854	6,421	18,753	29,437	1.792	1.523	25,023
Columbia Sugar Co.	8,270	.666	9,163	.743	1,929	4,109	12,006	14,005	.852	.717	11,780
Cora-Texas Manufacturing Co., Inc.	9,986	.804	10,573	.859	8,297	1,134	3,292	11,679	.705	.793	13,029
Dugas & LeBlanc, Ltd.	18,736	1.508	19,646	1.570	8,869	6,257	19,093	27,803	1.693	1.600	25,630
Duhe & Bourgeois Sugar Co.	12,555	1.010	12,699	1.029	2,099	6,422	18,696	21,195	1.290	1.085	17,847
Evan Hall Sugar Co-op, Inc.	25,438	2.047	27,145	2.182	10,010	11,316	32,709	42,709	2.602	2.195	35,899
Frisco Cane Co., Inc.	2,380	.192	2,273	.183	0	1,632	4,434	4,434	.270	.206	3,385
Glenwood Co-op, Inc.	18,445	1.484	19,654	1.580	8,251	7,716	22,605	30,776	1.872	1.581	25,975
Helvetia Sugar Co-op, Inc.	14,422	1.161	14,589	1.172	7,863	5,411	15,659	23,463	1.428	1.217	19,995
Iberia Sugar Co-op, Inc.	20,160	1.622	21,013	1.737	10,092	6,696	19,119	29,021	1.803	1.651	27,018
Lafourche Sugar Co.	24,881	2.002	25,277	2.032	13,620	10,070	29,144	42,104	2.666	2.121	34,845
Harry L. Laws & Co., Inc.	16,128	1.298	17,274	1.388	5,232	7,878	22,800	28,032	1.707	1.383	22,709
Levert-St. John, Inc.	12,897	1.031	14,352	1.153	849	9,035	26,149	26,969	1.643	1.178	19,354
Louisa Sugar Co-op, Inc.	10,481	.843	12,094	.972	1,955	6,313	18,268	20,213	1.230	.947	15,559
Louisiana State Penitentiary	5,222	.420	4,901	.393	4,220	729	2,119	6,339	.385	.393	6,457
Meeker Sugar Co-op, Inc.	10,896	.877	12,141	.976	7,702	1,658	4,625	12,327	.750	.871	14,310
Milliken & Farwell, Inc.	10,789	.868	12,291	.981	2,651	4,571	14,097	16,748	1.022	.921	15,132
M. A. Patout & Son, Ltd.	19,065	1.534	20,686	1.663	2,955	11,019	31,851	34,849	2.121	1.677	27,553
Poplar Grove Planting & Refining Co.	9,003	.724	10,049	.808	3,791	3,733	10,804	14,595	.888	.774	12,717
Savoie Industries	16,411	1.321	18,185	1.462	8,099	6,412	18,557	26,656	1.617	1.423	23,133
St. James Sugar Co-op, Inc.	24,557	1.976	24,745	1.989	20,029	2,700	7,831	27,857	1.734	1.930	31,709
St. Mary Sugar Co-op, Inc.	16,108	1.296	16,770	1.348	7,143	7,534	21,804	28,950	1.762	1.400	23,002
South Coast Corp.	65,913	5.304	71,097	5.712	53,359	8,594	24,906	77,662	4.721	5.259	86,068
Southdown Sugars, Inc.	41,827	3.366	42,617	3.417	23,777	14,928	43,204	66,981	4.077	3.518	57,800
Sterling Sugars, Inc.	29,094	2.341	29,084	2.418	13,825	13,228	38,339	51,764	3.151	2.518	41,370
J. Supple's Sons Planting Co.	5,323	.428	5,852	.470	2,417	2,203	6,026	8,623	.551	.491	7,574
Valentine Sugars, Inc.	14,422	1.161	14,239	1.144	7,192	5,656	16,167	23,359	1.422	1.210	19,880
Vida Sugars, Inc.	5,819	.468	6,149	.494	0	4,432	12,827	12,827	.731	.625	8,806
A. Wilbert's Sons Lumber & Shingle Co.	9,901	.797	10,547	.848	2,549	5,567	15,701	18,137	1.104	.869	14,277
Louisiana subtotal	596,121	47.972	625,707	50.263	294,323	224,192	618,844	943,167	57.406	50.324	826,811
Atlantic Sugar Association, Inc.	40,384	3.250	31,767	2.555	34,953	3,607	10,613	45,566	2.773	3.016	49,552
Glades County Sugar Growers Co-op Association	45,893	3.693	45,111	3.628	41,646	2,205	6,815	48,461	2.951	3.231	53,013
Gulf & Western Food Products Co.	83,704	6.736	78,471	6.308	70,673	5,777	16,719	93,232	5.674	6.449	105,863
Osceola Farms Co.	59,396	4.780	53,768	4.321	54,079	3,650	10,556	64,692	3.939	4.518	74,229
Sugarcane Growers Co-op of Florida	119,568	9.622	111,395	8.954	100,650	7,207	21,147	130,776	7.960	9.156	150,431
Talisman Sugar Corp.	69,232	5.571	68,576	5.512	51,833	4,627	13,102	64,935	3.955	5.235	85,926
United States Sugar Corp.	223,357	18.376	229,243	18.423	201,009	10,671	48,017	232,026	15.349	17.779	292,104
Florida subtotal	646,534	52.028	618,341	49.702	572,849	43,864	125,949	689,863	42.594	49.676	816,164
Total all mainland cane	1,242,655	100.000	1,244,108	100.000	867,182	268,056	775,793	1,642,975	100.000	100.000	1,642,975

[1] The higher of either the production of sugar from the 1971 crop sugarcane or 103 percent of the average production for the 1969 and 1970 crops of sugarcane.

[2] Average annual quota marketings for each processor for years 1969 through 1971.

[3] Effective inventory, Jan. 1, 1972, is the physical Jan. 1, 1972, plus processings rom 1971 crop cane in 1972.

[4] The difference between 1,642,975 tons (quota for 1972 established by S.R. 811 Amdt. 9, less 25 tons reserved for Louisiana State University) and the total Jan. 1, 1972, effective inventories for all processors amounting to 877,182 tons. This difference of 775,793 tons prorated on the basis of each processor's average 1969–71 new-crop marketings.

[5] Column (10) was determined by weighting "processings" Col. (2) by 60 percent, "marketings" Col. (4) by 20 percent, and "ability" Col. (9) by 20 percent Column (11) was determined by multiplying the quota, less 25 tons reserved for Louisiana State University, by Column (10).

(8) The order shall be revised without further notice or hearing for the purpose of (a) allotting any quantity of an allotment to other allottees when written notification of release by an allottee of any part of an allotment becomes a part of the official records of the Department, (b) revising allotments by the substitution of revised or corrected data which have become a part of the official records of the Department; and (c) revising allotments to give effect to any increase or decrease in the quota made by the Administrator pursuant to the provisions of the Sugar Act of 1948, as amended. Any revision in allotments made to give effect to (a) of this finding (8) shall be made by increasing proportionately the allotments as provided in finding (4)(f), except that the quantity prorated to any allottee releasing allotments in excess of a specified quantity should be limited in accordance with the written statement of release by any such allottee. In making changes under (b) and (c) of this finding (8) allotments shall be determined by the full application of the formula for determining allotments as provided in paragraphs (a) through (d) of finding (4).

(9) Official notice will be taken of (a) written notification to the Agricultural Stabilization and Conservation Service by an allottee that he is unable to fill all or a part of his allotment when the notification becomes a part of the official records of the Department, (b) substitution of revised or corrected data where such data becomes a part of the official records of the Department, and (c) any regulation issued by the Administrator, after publication in the FEDERAL REGISTER, which changes the 1972 Mainland Cane Sugar Area quota.

(10) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest, and under circumstances involving an allottee becoming unable to process sugarcane and such sugarcane as he would normally process, if operating, is processed by other allottees.

(11) To aid in the efficient movement and storage of sugar, provision shall be made to enable a processor to market a quantity of sugar of his own production in excess of his allotment equivalent to the quantity of sugar which he holds in storage and which was acquired by him within the allotment of another allottee.

(12) Allotments established in the foregoing manner and in the amounts set forth in the order provide a fair, efficient, and equitable distribution of any 1972 Mainland Cane Sugar Area quota that may be established for consumption within the continental United States and meet the requirements of section 205(a) of the Act.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act: *It is hereby ordered:*

§ 814.10 Allotment of the 1972 sugar quota for the Mainland Cane Sugar Area.

(a) *Allotments.* The 1972 sugar quota for the Mainland Cane Sugar Area of 1,643,000 short tons, raw value, is hereby allotted to the following processors in the quantities which appear opposite their respective names:

Processors	Allotments (short tons, raw value)
Albania Sugar Co.	14,690
Alma Plantation, Ltd.	15,411
J. Aron & Co., Inc.	22,542
Billeaud Sugar Factory	17,810
Breaux Bridge Sugar Co-op	14,475
Wm. T. Burton Industry, Inc.	10,794
Caire & Graugnard	9,858
Cajun Sugar Co-op., Inc.	32,432
Caldwell Sugar Co-op, Inc.	25,023
Columbia Sugar Co.	11,780
Cora-Texas Manufacturing Co., Inc.	13,029
Dugas & Leblanc, Ltd.	25,630
Duhe & Bourgeois Sugar Co.	17,647
Evan Hall Sugar Co-op, Inc.	35,899
Frisco Cane Co., Inc.	3,385
Glenwood Co-op, Inc.	25,975
Helvetia Sugar Co-op, Inc.	19,935
Iberia Sugar Co-op, Inc.	27,618
Lafourche Sugar Co.	34,848
Harry L. Laws & Co, Inc.	22,969
Levert-St. John, Inc.	19,354
Louisa Sugar Co-op, Inc.	15,559
Louisiana State Penitentiary	6,457
Louisiana State University	25
Meeker Sugar Co-op, Inc.	14,310
Milliken & Farwell, Inc.	15,132
M. A. Patout & Son, Ltd.	27,553
Poplar Grove Planting & Refining Co.	12,717
Savoie Industries	23,133
St. James Sugar Co-op, Inc.	31,709
St. Mary Sugar Co-op, Inc.	23,002
South Coast Corp.	86,568
Southdown Sugars, Inc.	57,800
Sterling Sugars, Inc.	41,370
J. Supple's Sons Planting Co.	7,574
Valentine Sugars, Inc.	19,880
Vida Sugars, Inc.	8,806
A. Wilbert's Sons Lumber & Shingle Co.	14,277
Louisiana subtotal	826,836
Atlantic Sugar Association, Inc.	49,552
Glades County Sugar Growers Co-op Association	58,013
Gulf & Western Food Products, Co.	105,808
Osceola Farms Co.	74,230
Sugarcane Growers Co-op of Florida	160,431
Talisman Sugar Corp.	86,026
United States Sugar Corp.	292,104
Florida subtotal	816,164
Total all mainland cane	1,643,000

(b) *Marketing limitations.* Marketings shall be limited to allotments as established herein subject to the prohibitions and provisions of §§ 816.1 through 816.9 of this subchapter (33 F.R. 8495).

(c) *Transfer of allotments.* The Director, Sugar Division, Agricultural Stabilization and Conservation Service of the Department, may permit marketings to be made by one allottee, or other persons, within the allotment established for another allottee upon relinquishment by such allottee of a quantity of its allotment and upon receipt of evidence satisfactory to the Director that (1) a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved has occurred, or (2) the allottee receiving such permission will process 1972 crop sugarcane which the allottee relinquishing allotment has become unable to process.

(d) *Exchanges of sugar between allottees.* When approved in writing by the Director, Sugar Division, Agricultural Stabilization and Conservation Service of the Department, any allottee holding sugar or liquid sugar acquired by him within the allotment of another person established in paragraph (a) of this section may ship, transport, or market up to an equivalent quantity of sugar processed by him in excess of his allotment established in paragraph (a) of this section. The sugar or liquid sugar held under this paragraph shall be subject to all other provisions of this section as if it had been processed by the allottee who acquired it for the purpose authorized by this paragraph.

(e) *Revision of allotments.* Allotments established under this order may be revised without further notice or hearing in accordance with findings and conclusions heretofore made, to give effect to (1) the substitution of revised or corrected data, (2) the reallocation of any quantity of an allotment released by an allottee, and (3) any change in the Mainland Cane Sugar Area quota.

(Secs. 205, 209, 403, 61 Stat. 926 as amended, 928, 932; 7 U.S.C. 1115, 1119, 1153)

Effective date. This docket will become effective when published in the FEDERAL REGISTER (8-15-72).

Signed at Washington, D.C., on August 7, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-12743 Filed 8-14-72;8:54 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 11, Amdt. 10]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Purpose of Government Leases of Uranium Prospecting or Mining Rights

On June 30, 1972, there was published in the FEDERAL REGISTER (37 F.R. 12977) a notice that the Small Business Administration proposed to define a concern as small for the purpose of Government leases of uranium prospecting or mining rights, if its number of employees does not exceed 100 persons.

Interested parties were given 15 days in which to file written statements of facts, opinions, or arguments concerning the proposal and no significant comment was received.

Accordingly, the proposed amendment is hereby adopted without change and is set forth below.

Effective date. This amendment shall become effective on publication in the FEDERAL REGISTER (8–15–72).

Dated: July 31, 1972.

THOMAS S. KLEPPE,
Administrator.

Part 121 is amended by (1) revising the table of contents to Part 121 by renumbering §§ 121.3–14 and 121.3–15 as §§ 121.3–15 and 121.3–16 respectively and inserting new § 121.3–14, definition of small business for the purpose of Government leases of uranium prospecting or mining rights.

(2) Renumbering §§ 121.3–14 and 121.3–15 as §§ 121.3–15 and 121.3–16 respectively, and inserting new § 121.3–14 to read as follows:

§ 121.3–14 Definition of small business for the purpose of Government leases of uranium prospecting or mining rights.

In the submission of a bid or proposal for a Government lease of uranium prospecting or mining rights, a concern whose number of employees does not exceed 100 persons may represent that it is a small business. In the absence of a written protest or other information which would cause him to question the veracity of the self-certification, the contracting officer shall accept the self-certification at face value for the particular lease involved.

[FR Doc.72–12728 Filed 8–14–72;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72–SO–79; Amendment 39–1500]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Model PA–34–200 Series Airplanes

There have been failures of induction air box valves on the Piper PA–34 airplanes which can result in a substantial power loss. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the induction air box assembly for a loose, broken, or cracked valve.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

Piper: Applies to PA–34–200 airplanes, Serial Nos. 34–E4 and 34–7250001 and up.

Compliance required as indicated.

To prevent the possibility of a power loss due to the failure of the induction air box valve, accomplish the following:

(a) For those airplanes with 100 or more hours time in service on the effective date of this airworthiness directive unless already accomplished within the last 100 hours time in service comply with paragraph (c) within the next 10 hours time in service and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

(b) For those airplanes with less than 100 hours time in service on the effective date of this airworthiness directive, unless already accomplished, comply with paragraph (c) upon the accumulation of 100 hours time in service or within the next 10 hours, whichever is later, and thereafter at intervals not to exceed 100 hours time in service from the last inspection.

(c) Remove the induction air box assembly from each engine and remove the valve assembly from the box assembly to permit a thorough visual inspection of the valve assembly. Inspect the valve assembly for any evidence of excessive wear or cracks in the areas where the shaft mates to the valve assembly.

(d) If valve assemblies are found to contain worn, loose, or cracked parts, replace the affected parts with serviceable parts of the same part numbers before further flight.

(e) Reassemble induction air boxes, install and rig in accordance with PA–34 service manual.

Piper Service Bulletin No. 358 dated August 2, 1972, pertains to this subject.

This amendment is effective August 17, 1972, and was effective upon receipt for all recipients of the airmail letter dated August 4, 1972, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on August 4, 1972.

DUANE W. FREER,
Acting Director,
Southern Region.

[FR Doc.72–12838 Filed 8–14–72;8:48 am]

[Airspace Docket No. 72–NW–16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

On June 17, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 12068) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal aviation regulations that would alter the description of the Burley, Idaho, transition area.

Interested persons were given 30 days in which to submit written comments. No objections were received.

The notice failed to reflect the previous amendment (Airspace Docket No. 72–NW–03) published in the FEDERAL REGISTER (37 F.R. 8658) that made a minor adjustment to the 700-foot transition area. This is corrected in the amendment herein adopted which is otherwise unchanged.

In consideration of the foregoing, Part 71 of the Federal aviation regulation is amended, effective October 12, 1972, as hereinafter set forth.

In Section 71.181 (37 F.R. 2143) as amended (37 F.R. 8658), the description of the Burley, Idaho, transition area is further amended as follows:

Between the words, " * * * extending from the VORTAC 11 miles northwest of the VORTAC;" and "that airspace extending upward from 1,200 feet * * *," insert: "within 4 miles each side of the Burley VORTAC 344° radial extending to the north edge of V–500;".

(Sec. 307(a) Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act 49 U.S.C. 1655(c))

Issued in Seattle, Wash., on Aug. 7, 1972.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc.72–12839 Filed 8–14–72;8:48 am]

[Airspace Docket No. 72–EA–59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

Correction

In F.R. Doc. 72–12428 appearing at page 15984 of the issue for Wednesday, August 9, 1972, the penultimate line of the final paragraph should read "the 8-mile-radius area to 11.5 miles south-" instead of "the 3-mile-radius area to 11.5 miles south-".

[Airspace Docket No. 72–WA–41]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Amendment to Area High Routes

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change the reference facility for the "Judyville, IN." waypoint in area high route J836R. This change of reference facilities is desirable to provide improved overall signal coverage for this route and for new high route J811R proposing to use the "Judyville" waypoint.

Since this amendment is minor in nature with no substantive change in the regulation, notice and public procedure thereon are unnecessary. However, since sufficient time must be allowed to make

appropriate changes on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 12, 1972, as hereinafter set forth.

Section 75.400 (37 F.R. 2400) is amended as follows: In J836R delete first waypoint information "Judyville, Ind. 40°14'20" N. 87°22'35" W. Fort Wayne, Ind." and substitute "Judyville, IN. 40°14'20" N. 87°22'35" W. Indianapolis, IN." therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on August 8, 1972.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-12840 Filed 8-14-71;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-754; Amdt. 221-16]

PART 221—CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS, AND FOREIGN AIR CARRIERS

Provisions Under Price Stabilization Program; Deletion

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of July 1972.

For the reasons set forth in ER-753, adopted contemporaneously herewith, the Board is issuing Part 229 of the Economic Regulations to establish certain criteria for use by the Board in assessing increases in rates, fares, and charges for services subject to its jurisdiction during the price stabilization program. Under the Board's price stabilization rules,[1] each air carrier which files a tariff publication or any application or request involving a rate increase, as defined therein, will be required to submit sufficient information for the Board to determine whether the proposed increase is consistent with the price stabilization standards established by the Board.

Since the aforementioned supporting information supersedes the information presently required by § 221.165a, we are herein amending Part 221 to delete said section.

Since this amendment merely deletes a requirement contained in another part, the Board finds that notice and public procedure thereon is unnecessary and the amendment may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 221 of the Economic Regulations (14 CFR Part 221) effective August 15, 1972, as follows:

[1] § 229.4.

1. Amend the table of contents of Subpart M by deleting and reserving the title of § 221.165a is follows:

Sec.
221.165a [Reserved]

§ 221.165a [Reserved]

2. Amend Subpart M of Part 221 by deleting and reserving § 221.165a.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-12865 Filed 8-14-72;8:53 am]

[Regulation ER-753]

PART 229—SPECIAL PROVISIONS UNDER PRICE STABILIZATION PROGRAM

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of July 1972.

We are today adopting rules to establish certain criteria for use by the Board in assessing increases in rates, fares, and charges for services subject to its jurisdiction during the price stabilization program, and, by establishment of such criteria, to obtain from the Price Commission a certificate of compliance with said program. In addition, each air carrier proposing a rate increase will be required to submit sufficient information for the Board to determine whether the proposed increase is consistent with the price stabilization criteria prescribed herein.[1]

The salient features of the rules, and our amplifying comments thereon, are as follows:

Coverage, § 229.2—The price stabilization criteria adopted herein govern all increases in the rates, fares, or charges for interstate and overseas[2] air transportation services and shall apply to all certificated air carriers and the all other direct and indirect air carriers, except those exempted hereunder and subject to such exemptions as may from time to time be issued by the Cost of Living Council.

The carriers to which the rules will apply are those whose rates are presently regulated by the Board, namely, certificated scheduled combination airlines (e.g., the U.S. trunkline and local service carriers), certificated all-cargo carriers, supplemental air carriers, and airfreight forwarders.

[1] Section 229.4. Since the information required by this section will supersede the supporting information presently required by § 221.165a of Part 221 (see ER-723, February 1, 1972), we are, concurrently herewith, amending Part 221 to delete the latter section.

[2] The Cost of Living Council (CLC) has specifically exempted from the price stabilization program all rates, fares, and charges for foreign air transportation (as defined in section 101(21) of the Act) which are set forth in tariffs filed with the Board or which are established or approved by the Board.

It is necessary for the Board to assess the price increases of all the above-mentioned classes of carriers in light of criteria hereinbelow described to insure that the objectives of the price stabilization program are being met. We will not require carriers with annual revenues of $5 million or less to file, with their rate increase proposals, the supporting information required by § 229.4. We think this reporting requirement will be unduly burdensome to these smaller carriers. The vast majority of these carriers are airfreight forwarders, and a reporting requirement is not necessary insofar as their rates are governed by the level of rates of their competitors, the larger carriers whose price increases will be subject to close scrutiny. However, the Board reserves the right to inquire into price increases of such carriers and will take appropriate action if it determines that they are inconsistent with price stabilization objectives.

We have excluded from coverage of the regulation the classes of direct and indirect air carriers which the Board has exempted from rate regulation pursuant to sections 101(3) (authorizing exemptions for indirect air carriers) and 416(b) (authorizing exemptions for direct air carriers) of the Act.[3] The carriers consist primarily of air taxi operators and inclusive tour and study group charterers who retail air transportation purchased from direct air carriers as part of a tour package which also includes ground accommodations. The Board's policy with respect to these carriers has been one of minimal regulation, with reliance on the principle of free entry and the forces of competition as the mechanisms for assuring rates of reasonable levels. In view of the relatively large number of such carriers, the vast majority of which are small operators, the Board does not regard the assertion of ratemaking jurisdiction at this time as feasible.

Compliance with the Economic Stabilization Program, §§ 229.3, 229.4. Except where inconsistent with the price stabilization standards enumerated below, the rules state that recognition of expenses, investment, rate of return on investment, and taxes in proceedings subject to Part 229 will be in accordance with the Board's standards and criteria established for ratemaking purposes.

Unit of ratemaking. In reviewing rate increases under the provisions of this part, the Board will continue its policy of determining the overall revenue needs for the service involved within the ratemaking unit which is customarily used by the Board, and take into account allowable costs for all carriers serving the relevant market area.

The ratemaking unit consists of all carriers providing the specified service (passengers, mail, freight, or express) within a specified geographical area.

[3] We do not mean to imply, by this exception, that the above-mentioned carriers are not subject to the policies and objectives of the economic stabilization program.

For example, the 48 States, mainland-Hawaii, and mainland-Puerto Rico are treated as separate ratemaking units for the purpose of setting the reasonable level of fares for the domestsic passenger services of the certificated combination scheduled airlines.

Price stabilization criteria. The rules require that all increases in air carrier rates, fares, and charges:

(1) *Shall be cost-justified and shall not reflect future inflationary expectations.* Each tariff filing, application, or other request involving a rate increase which would have the effect of increasing the carrier's annual revenues for the service involved within the ratemaking unit by more than 1 percent must be accompanied by a complete forecast of operations applicable to each ratemaking unit for the year subsequent to the proposed increase, and shall include revenues and expenses, operating profit, interest expense, income taxes, investment, and rate of return on investment or profit margin,[4] as the case may be. The forecasts must specifically itemize cost increases and productivity gains attainable during the forecast year.

Forecast year data will be screened to insure that projected cost increases are limited to: Actual increases incurred during, but not fully reflected in, the most recent year for which the carrier has filed its financial and statistical reports required by the Board's economic regulations; actual increases which have been incurred since; and future increases contracted for. Speculative costs, such as anticipated wage increases not included in signed agreements, will not be recognized for ratemaking purposes.

Under the Federal Aviation Act, the Board is required, in its ratemaking proceedings, to consider such public interest factors as the promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discrimination, undue preference or disadvantage, or unfair or destructive competitive practices. Therefore, in determining whether a proposed rate increase is cost-justified, the Board intends to continue its policy of requiring evidence sufficient to enable it to consider only those costs which should reasonably be borne by the users of the particular service to insure that certain users are not burdened with the costs of providing other transportation services.

In addition, the Board will not allow promotional expenses unless they bear a relationship to a carrier's efforts to increase its productivity. The certificated passenger airlines are currently operating at less than optimum load factors, and we would regard reasonable advertising expenses designed to attract new customers as coming within the category of allowable promotional expenses.

(2) *Shall be the minimum required to assure continued, adequate, and safe service or to provide for necessary expansion to meet future requirements.* In assessing rate increase proposals under the provisions of this part, the Board will continue to take into consideration, among other factors: The effect of the increase proposed on the movement of traffic; the need in the public interest of adequate and efficient transportation of persons and property by air carriers at the lowest cost consistent with the furnishing of such service; and the need of each carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

In the latter connection, the Board intends to follow its customary practice of using average or representative costs in its rate proceedings conducted during the price stabilization program, subject to disallowance of costs shown to be the product of uneconomical or inefficient management.[5]

Attention is also invited to our recent decision in Phases 6A and 6B of the Domestic Passenger-Fare investigation,[6] wherein we established seating configuration and load-factor[7] standards, respectively, for ratemaking purposes. In accordance with our decision in Phase 6A, the reasonable level of domestic passenger fares for the relevant market areas will be determined "as if" the carriers operated a seating configuration in coach service in conformance with the standards set by the Board; namely, six abreast in narrow bodied aircraft and nine abreast in B–747 aircraft (eight abreast in L–1011 and DC–10), at a nominal seat pitch of 36 inches. While the carriers will be allowed to operate coach service with five-abreast seating without having to charge a commensurate fare differential, the costs of operating seating configurations less dense than that prescribed by the standard will be borne by the carrier, rather than the ratepayer.

The Phase 6B decision provides that, in determining the reasonable level of domestic passenger fares affected by a fare proposal, the Board will not recognize carrier operating costs and related investment associated with the operation of capacity in excess of that needed to achieve the industry load-factor standard prescribed by the Board—i.e., 55 percent for the scheduled domestic trunkline carriers (52.5 percent for interim purposes) and 44.1 percent for the local service carriers. Thus, if carriers choose to schedule capacity in excess of traffic needs, they cannot expect to raise passenger fares to recover the costs of such excess capacity, which is properly chargeable to the owners of the enterprise. For market areas other than those encompassed in Phase 6B (i.e., other than the 48 States), rates and fares will be evaluated on the basis of long-term reasonably attainable load factors, taking into consideration the circumstances of the particular market.

The Board also intends to continue its present policy of periodically reviewing carrier rate levels under statutory ratemaking standards and the standards established in various phases of the domestic passenger-fare investigation, based on its analysis of revenue, traffic, and cost data submitted by the carriers in their quarterly financial and statistical reports required to be filed with the Board.

(3) *Shall achieve no more than the minimum rate of return needed to attract capital at reasonable costs and not impair the credit of the carrier.* After a formal hearing in Phase 8 of the domestic passenger-fare investigation, the Board determined (1) that 12 percent is the reasonable overall rate of return on investment for the domestic passenger-fare services of the domestic trunkline industry and (2) that 12.35 percent is the reasonable standard return on investment for the passenger services of the local service carriers.[8] The Board based these determinations on a thorough analysis of the cost of capital studies in the record of that proceeding including, in particular, a separate determination of the cost of embedded debt capital, the appropriate rate for equity capital determined by an inquiry into invested earnings requirements and earnings on investment in comparable enterprises, and the appropriate capital structure which should be recognized in combining the costs of the two components into an overall rate of return. Upon consideration of the record, the Board found that the aforementioned rates of return would compensate the carriers for their costs of capital, provide the equity owners with returns comparable to returns on investments in enterprises having comparable risks, and enable the carriers to maintain their credit and to attract capital.

In light of the recency of this proceeding, it is appropriate to use a 12-percent standard rate of return (12.35 percent for local service carriers) to fix passenger-fare levels during the economic stabilization program. It should be emphasized that this standard is not a guarantee that an individual carrier will earn the standard return in any given year or period of years; indeed, the returns on investment experienced by individual carriers will, as they have in the past, fluctuate above and below the standard rate as some carriers will earn more and some less than the 12-percent standard depending on the efficiency of their individual operations, their experienced costs of capital, achievement of the above-mentioned load-factor standards

[4] As discussed, infra, p. 11, the Board believes it is appropriate to use a profit margin standard for airfreight forwarders, instead of the usual return on investment criterion, for purposes of price stabilization.

[5] Cf. our recent actions in the Northeast United States-Puerto Rico/Virgin Islands fare increase proposal case, Order 72-3-94, Mar. 29, 1972, and the IATA Passenger Fare and Cargo Rate Agreements cases, Orders 72-3-104, 72-3-105, and 72-3-106, Mar. 30, 1972, in which we assigned very little weight to the operating costs of the high cost carrier in assessing the need for fare increases.

[6] Order 72-5-101, May 26, 1972, and Order 71-4-54, Apr. 9, 1971.

[7] The passenger load factor is the percentage relationship between capacity operated and revenue traffic carried and is the quotient obtained by dividing revenue passenger miles by available seat miles.

[8] Order 71-4-58, Apr. 9, 1971.

and other variables which cannot be measured with precision and for which the standard rate necessarily must allow. By the same token, since air carrier rates are set on an industrywide basis, an individual carrier will have the incentive to increase the efficiency of its operations through improvements in productivity—e.g., tailoring its aircraft capacity to more precisely meet the demands of particular markets—and thus to achieve a rate of return above that prescribed for the entire industry.

We also intend to use the 12-percent standard as a benchmark to measure the reasonable rates of return for other transportation services provided by the carriers, allowing, of course, for the varying degrees of risks entailed in providing each of such other services. For example, we have established 10.5 percent as a reasonable return on investment for the provision of international charter services for the Military Airlift Command, based upon what, in our judgment, is a lesser degree of risk in operating MAC contracts, than the risks associated with the operations of scheduled passenger services.

The regulations also include a special standard with respect to the profit element to be employed for airfreight forwarders. Many airfreight forwarders engage in significant nonforwarder operations, and the financial information reported by forwarders does not include reliable data as to that portion of their total investment which is allocable to their forwarder operations. In view of these circumstances, and in light of the relatively high capital turnover which prevails in the airfreight forwarder industry, the Board believes it is proper to use a profit-margin standard for these carriers, instead of the usual return on investment criterion, for purposes of price stabilization.

In determining the profit margin allowable for airfreight forwarder operations, the Board will generally consider reasonable the carrier's profit margin which prevailed during any two of the carrier's last 3 fiscal years, unless the forwarder demonstrates that such profit margin is less than that needed to attract capital at reasonable costs and not impair the credit of the carrier.

(4) *Shall not reflect labor costs in excess of those allowed by the Price Commission.* Our rules require that each carrier proposing a rate increase identify in its forecast of operations mentioned in paragraph (1) above the amount of wage increases which are in excess of guidelines issued by the Price Commission and make an appropriate adjustment in its submitted data to eliminate any such excess amount which is reflected in its cost justification. Present regulations of the Price Commission provide that wage or salary increases in excess of 5.5 percent per year are not allowable unless the increase is required by a contract which became binding before November 8, 1971, or unless the excess cost would impose an undue hardship on the employer if it were disallowed.

(5) *Shall take into account expected and obtainable productivity gains.* Consistent with our treatment of cost increases, we will take into account not only those productivity gains which were reflected in the actual results for the base year used in making projections, but also those gains in productivity during such base year which are not fully reflected therein, as well as other producitivity gains related to known facts of operations in the future periods covered by the price increase.

More specifically, the Board normally follows the practice of predicating rates on a forecast of operations of which each element must be documented by evidence based on the carriers' experienced data for the base year used in the ratemaking proceeding. Under this practice, cost increases are allowed only to the extent of annualizing increases actually incurred, contracted for, but not fully reflected during the base year. Since this technique reflects only quantitatively provable cost increases, it would be improper to attempt to reflect speculative productivity gains. By the same token, the objectives of the price stabilization program will be achieved by reflecting known productivity on an annual basis, and we will require these to be identified. With respect to "obtainable" productivity gains, the Board uses average or representative costs in its rate proceedings, subject to the disallowance of costs shown to be the product of uneconomical or inefficient management. Where it is shown that a carrier proposing a rate increase can reduce the cost of its operations by eliminating or curtailing wasteful or unnecessary expenditures, the Board will so find and such expenses will be disallowed in computing costs for ratemaking purposes. With respect to "expected" productivity gains, the major means of productivity improvement for air carriers has been the operation of larger, more efficient aircraft, and it is our practice to reflect in forecasts the lower unit operating costs associated with the introduction and use of such aircraft.

Exceptions. The rules state that the Board's price stabilization criteria will not apply where their application would be inconsistent with provisions of the Federal Aviation Act which prescribes the Board's duties and responsibilities with respect to rate regulation.

Procedure, § 229.6. The rules embodied in Part 302 of the procedural regulations,[9] applicable to participation by interested persons in economic proceedings of the Board, will afford such persons ample opportunity to participate in proceedings governed by the provisions of this part, and we incorporate them herein.

Under the Board's procedural regulations, the public has full opportunity to participate in all stages of the ratemaking process.

Specifically, as prescribed in section 403(c) of the Act (notice of tariff changes), a carrier may not without special permission change any of the rates, fares, or charges specified in its currently effective tariffs until at least 30 days after it has given notice of the proposed change in a tariff filed, posted, and published in accordance with the applicable provisions of the Act and the Board's regulations. Currently the regulations require that the carrier post its tariff in each location where it sells tickets; however the regulations permit constructive posting of the tariffs—that is, the display of a notice informing the public that the tariff publications are on file at the carrier location and the maintenance of a file of proposed and currently effective tariffs.[9a] The regulations also provide that any person may file against such proposed tariff a complaint setting forth the reasons, with supporting factual analysis, why he thinks the proposed rates, fares, or charges are unlawful.

If, on the basis of filed complaints, or, on its own motion, the Board determines that it is necessary to hold a hearing on the lawfulness of the proposed rate, fare, or charge, any complainant is customarily accorded, at such hearing, the status of a party carrying with it, inter alia, the right to appear at the hearing, submit evidence, cross examine witnesses, file briefs, and receive service of any documents which may be filed or issued in the course of the proceeding. Our rules of practice also provide that any person disclosing a substantial interest may be permitted to intervene in formal economic proceedings and that the intervenor will become a party to such proceedings. Thus, numerous persons and organizations have been party to Board proceedings, including government agencies, civic interests (e.g., municipalities, State governments, and State regulatory commissions), organized consumer groups, and shippers and their organizations. In addition, other persons may participate in a formal rate investigation without disclosing a substantial interest, to the extent of submitting evidence relevant to the issues involved in such proceeding, filing a statement of position on the issues, and at the discretion of the hearing examiner, cross examining witnesses.

Since the regulations herein are essential in order to permit compliance with current price stabilization requirements, the Board finds that notice and public procedure thereon are impracticable and that good cause exists for making them effective less than 30 days after publication.

In consideration of the foregoing, the Civil Aeronautics Board hereby issues Part 229 of the economic regulations (14 CFR Part 229), effective August 15, 1972, as follows:

Sec.
229.1 Applicability.
229.2 Definitions.
229.3 Price stabilization criteria.

[9] 14 CFR Part 302.

[9a] There is presently pending before the Board a proposed rule which would require the displaying and filing with the Board of summary statements to explain proposed tariff changes and new tariffs (EDR-222, March 17, 1972, 37 F.R. 5964).

Sec.
229.4 Information submissions.
229.5 Participation by interested persons.

AUTHORITY: The provisions of this Part 229, are issued under the authority of sections 101(3), 204(a), 403, 404, 406, 416, and 1002 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 758 [as amended by 74 Stat. 445], 760, 763 [as amended by 76 Stat. 145], 771 and 788; 49 U.S.C. 1301, 1324, 1373, 1374, 1376, 1386, and 1482; and the Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-5558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210, 85 Stat. 743; Executive Order No. 11627, 36 F.R. 20139, October 16, 1971; and section 300.16a of the regulations of the Price Commission, 37 F.R. 5701, March 17, 1972.

§ 229.1 Applicability.

This part contains certain criteria for use by the Board in assessing increases in rates, fares, and charges for services subject to its jurisdiction in relation to regulations of the Price Commission issued under the authority of the Economic Stabilization Act of 1970, subject to such exemptions as may from time to time be issued by the Cost of Living Council.

§ 229.2 Definitions.

As used in this part:

"Act" means the Federal Aviation Act of 1958, as amended.

"Air carrier" means each air carrier holding a certificate of public convenience and necessity issued under section 401(d) (1), (2), or (3) of the Act and all other direct and indirect air carriers except air taxi operators subject to Part 298 of this chapter or any other air carrier wholly relieved or exempted from the tariff filing requirements of section 403 and the requirement of section 404 (a) of the Act respecting the establishment of just and reasonable rates, fares, and charges.[10]

"Air transportation" means interstate and overseas air transportation as defined in section 101(21) of the Act.

"Rate increase" means any increase in air transportation rates, fares, or charges of an air carrier, as defined in this part, for the service involved within the ratemaking unit. *Provided, however,* That where a rate proposal contains both increases and decreases in existing rates, the decreases should be offset against the increases.

§ 229.3 Price stabilization criteria.

(a) *General.* Except as provided in paragraph (b) of this section, each rate increase proposed by an air carrier:

(1) Shall be cost-justified and shall not reflect future inflationary expectations;

(2) Shall be the minimum required to assure continued, adequate and safe service or to provide for necessary expansion to meet future requirements;

(3) Shall achieve no more than the minimum rate of return needed to attract capital at reasonable costs and not impair the credit of the carrier; and

(4) Shall not reflect labor costs in excess of those allowed by the Price Commission;

(5) Shall take into account expected and obtainable productivity gains.

The Board will make findings with respect to each of the aforementioned criteria in each opinion or order involving a rate increase.

(b) *Application of general criteria—*(1) *General rule.* Except where inconsistent with the criteria enumerated in paragraph (a) above, the recognition of expenses, investment, rate of return on investment, and taxes in proceedings subject to the provisions of this part shall be in accordance with the Board's standards and criteria established for ratemaking purposes.

(2) *Unit of ratemaking.* In reviewing rate increases, the Board will consider the overall revenue needs for the service involved[11] within the ratemaking unit which is customarily used by the Board, and take into account the experienced and projected allowable costs for all carriers serving the relevant market area.

(3) *Airfreight forwarders.* (i) In determining the profit element for airfreight forwarder operations, the Board will generally consider reasonable and carrier's profit margin which prevailed during the carrier's base period unless the forwarder demonstrates that such profit margin is less than that needed to attract capital at reasonable costs and not impair the credit of the carrier. (ii) For the purposes of this subparagraph:

"Base period"—means any two, at the option of the carrier concerned, of that carrier's last 3 fiscal years.

"Profit margin"—means the ratio that operating profit (operating revenue less normal and generally recurring costs of business operations, determined before nonoperating items, extraordinary items and income taxes) bears to operating revenues.

(4) *Exception.* The criteria enumerated in subparagraphs (1) through (5) of paragraph (a) of this section shall not apply where their application would be inconsistent with those provisions of the Federal Aviation Act which prescribe the duties and responsibilities of the Board with respect to rate regulation.

§ 229.4 Information submissions.

(a) Each air carrier with gross annual revenues of $5 million or more during the last fiscal year for which such information is available, which files with the Board a tariff publication or any application or request involving a rate increase shall, with such filing, submit sufficient evidence under certification by its chief executive or other responsible officer which shows:

(1) The existing rate, fare, or charge, the proposed rate, fare, or charge, and the percentage increase;[12]

(2) The dollar amount of increased revenue which the rate increase is expected to provide;

(3) A certification that the proposed rate increase satisfies each of the price stabilization criteria set forth in § 229.3(a).

(b) Each air carrier which is required to submit information in paragraph (a) of this section shall, for each proposed rate increase which would have the effect of increasing the carrier's annual revenues for the service involved within the ratemaking unit by more than 1 percent, submit for the year subsequent to the proposed increase, forecasts (with and without such increase) of operations applicable to the ratemaking unit affected by the proposed increase, and shall include revenues and expenses (broken down by normal Form 41 or Form 244 categories and functional accounts) operating profit, interest expense, income taxes, investment, and rate of return on investment or profit margin, as the case may be. All assumptions and allocation procedures should be fully explained, and all forecasts should reflect the Board's established ratemaking standards and the special criteria enumerated in § 229.3. The forecasts shall specifically itemize cost increases, shall be limited to actual increases incurred during, but not fully reflected in, the most recent year for which the carrier has filed its Form 41 or Form 244 reports, actual increases which have been incurred since, and contracted future increases.

(2) The carrier shall identify the amount of wage increases which are in excess of guidelines issued by the Price Commission[13] and make an appropriate adjustment in its submitted data to eliminate any such amount which is reflected in its cost justification, *Provided, however,* That, the Board will determine, on a case-by-case basis, whether extraordinary circumstances exist which would result in gross inequity or extreme hardship if identified wage or salary costs in excess of said guidelines are disallowed.

(3) The forecasts of operations required in this paragraph shall specifically identify those productivity gains which were reflected in the actual results for the base period used in making cost projections, those incurred during

[10] See §§ 298.11(a) and 298.11(b) of Part 298, § 373.3 of Part 373, and § 378.3 of Part 378 of this chapter, exempting air taxi operators, study group charterers, and tour operators, respectively.

[11] The ratemaking unit consists of all carriers providing the specified service (e.g., passengers, mail, freight, or express) within a specified geographical area. For example, the 48 States, mainland-Hawaii, and mainland-Puerto Rico are treated as separate ratemaking units for passenger-fare purposes.

[12] The foregoing requirement may be satisfied by the employment of the sampling methodology prescribed in § 221.165(c) of this chapter.

[13] As of this date regulations of the Price Commission provide that wage or salary increases in excess of 5.5 percent per year are not allowable unless the increase is required by a contract which became binding before Nov. 8, 1971, or unless the excess cost would impose an undue hardship on the employer if it were disallowed.

such base period but not fully reflected therein, and other productivity gains related to known facts of operations in the future periods covered by the price increase.

(c) Each air carrier which, with respect to any tariff filing or any application or request for a rate increase, does not file the information specified in this section shall state that such filing is not required by this part, and shall set forth the basis for that conclusion.

(d) Any tariff or any application or request for a rate increase shall be rejected or dismissed, as the case may be, if:

(1) The air carrier fails to furnish the information required by this section; or

(2) The rate increase is inconsistent with the price stabilization criteria enumerated in § 229.3.

(e) The information otherwise required by this section shall not be filed with respect to any tariffs filed pursuant to Board orders authorizing the rate increases embodied in such tariff.

§ 229.5 Participation by interested persons.

The rules embodied in Part 302 of this chapter, applicable to participation by interested persons in economic proceedings of the Board shall apply to proceedings governed by the provisions of this part.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

Reporting procedure. The Board shall make available to the Price Commission such orders, regulations, periodic reports or other information as the Price Commission may require.

NOTE: The rules contained herein have been approved by the Price Commission in accordance with 6 CFR 300.16a (37 F.R. 5701, March 17, 1972).

[FR Doc.72-12866 Filed 8-14-72;8:53 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2238]

PART 13—PROHIBITED TRADE PRACTICES

Baar and Beards, Inc., and Stanley M. Finkel

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1680 *Manufacture or preparation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Baar and Beards, Inc., et al., New York, N.Y., Docket No. C-2238, July 3, 1972]

In the Matter of Baar and Beards, Inc., a Corporation, and Stanley M. Finkel, Individually and as an Officer of Said Corporation

Consent order requiring a New York City importer and wholesaler of women's apparel and manufacturer of women's scarves to cease, among other things, manufacturing for sale, importing, selling, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Baar and Beards, Inc., a corporation, and its officers and Stanley M. Finkel, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material, or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products, and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products and of the results thereof, (4) any disposition of said products since August 25, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: July 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-12815 Filed 8-14-72;8:46 am]

[Docket No. C-2237]

PART 13—PROHIBITED TRADE PRACTICES

Buy-Rite Foods, Inc.

Subpart—Discriminating in price under Section 5, FTC Act: § 13.892 *Knowingly inducing or receiving discriminating payments.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Buy-Rite Foods, Inc., Salem, N.H., Docket No. C-2237, June 22, 1972]

In the Matter of Buy-Rite Foods, Inc., a Corporation

Consent order requiring a Salem, N.H., wholesale grocery business to cease inducing and/or receiving promotional and advertising allowances or contributions in connection with the construction or

operation of any facility of the respondent when known not to be offered to competitors on proportionally equal terms. Respondent is further ordered to refund to each supplier any and all consideration paid to respondent in connection with its new freezer-warehousing unit.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Buy-Rite Foods, Inc., a corporation, and its officers, representatives, agents, and employees, successors, and assigns, directly or indirectly, through any corporate or other device, in or in connection with the purchase or sale in commerce, as "commerce" is defined in the Federal Trade Commission Act, of products for resale by the respondent, Buy-Rite, or in connection with any other transactions between respondent and its various suppliers involving or pertaining to the regular business of the respondent in advertising, purchasing, distributing, and selling commodities and products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Inducing, inducing and receiving, or receiving promotional and advertising allowances or contributions of any nature whatsoever furnished by any supplier in connection with the publicizing, operation, or maintenance of any facility of respondent or with the purchase, offering for sale, or sale of any commodity purchased from such supplier when respondent knows or should know that such allowance or contribution thereto is not affirmatively offered or otherwise accorded by such supplier on proportionally equal terms to all other purchasers and customers competing with respondent in the sale and distribution of such supplier's products, including other purchasers who resell to customers who compete with respondent in the resale of such supplier's products.

2. Inducing, inducing and receiving, or receiving or contracting for the receipt of anything of value in connection with the construction, development, promotion, or maintenance of any facility of respondent or with the purchase, offering for sale, or sale of any commodity purchased from such supplier when respondent knows or should know that such allowance or contribution thereto is not affirmatively offered and otherwise accorded by such supplier on proportionally equal terms to all other purchasers and customers competing with respondent in the sale and distribution of such supplier's products, including other purchasers who resell to customers who compete with respondent in the resale of such supplier's products.

It is further ordered, That respondent, Buy-Rite Foods, Inc., shall notify all suppliers solicited in the promotional campaign conducted pursuant to the opening of its new fifty thousand (50,000) square foot freezer warehousing unit, located at 16 Kelly Road, Salem, N.H., of this order and shall provide each supplier with the following:

1. A copy of this order; and

2. An accounting of the current disposition of all consideration paid to Buy-Rite Foods, Inc.

It is further ordered, That respondent, Buy-Rite Foods, Inc., refund to each supplier any and all consideration paid to respondent which was improperly received and constitutes a discriminatory payment pursuant to its solicitation in the promotional campaign announcing and facilitating the opening of its said new freezer warehousing unit.

It is further ordered, That respondent, Buy-Rite Foods, Inc., notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of a subsidiary, or any other change in the corporation or corporate status which may affect compliance obligations arising out of this order.

It is further ordered, That respondent, Buy-Rite Foods, Inc., shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this Order.

Issued: June 22, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-12816 Filed 8-14-72;8:46 am]

[Docket No. C-2241]

PART 13—PROHIBITED TRADE PRACTICES

Egetaepper, Inc., and Preben Harton

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1680 *Manufacture or preparation.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Egetaepper, Inc., et al., New York, N.Y., Docket No. C-2241, July 3, 1972]

In the Matter of Egetaepper, Inc., a Corporation, and Preben Harton, Individually and as an Officer of Said Corporation

Consent order requiring a New York City importer, manufacturer, and seller of rugs and carpets, to cease, among other things, manufacturing for sale, selling, importing, or transporting any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Egetaepper, Inc., a corporation, its successors and assigns, and its officers, and respondent Preben Harton, individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this compaint, of the flammable nature of said products, and effect the recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since January 3, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondents will submit with their report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the

creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: July 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-12817 Filed 8-14-72;8:46 am]

[Docket No. C-2245]

PART 13—PROHIBITED TRADE PRACTICES

Love Television & Stereo Rental, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.75 *Free goods or services;* § 13.155 *Prices:* 13.155-35 Discount savings: 13.155-95 Terms and conditions. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1905 *Terms and conditions.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Love Television & Stereo Rental, Inc., et al., Atlanta, Ga., Docket No. C-2245, July 11, 1972]

In the Matter of Love Television & Stereo Rental, Inc., Love Television & Stereo Rental of Jacksonville, Inc., Love Television & Stereo Rental of Houston, Inc., Gates Rental, Inc., and Babcock Management Corp., Corporations, and Melvin D. Babcock and Galen E. Gates, Individually and as Officers of Said Corporations

Consent order requiring three firms, located in Atlanta, Ga., Jacksonville, Fla., and Houston, Tex., engaged in the sale and rental of television sets and stereo equipment to cease, among other things, misrepresenting the cost and selling terms and conditions of their merchandise.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Love Television & Stereo Rental, Inc., Love Television & Stereo Rental of Jacksonville, Inc., Love Television & Stereo Rental of Houston, Inc., Gates Rental, Inc., and Babcock Management Corp., corporations, and their officers, and Melvin D. Babcock and Galen E. Gates, individually and as officers of said corporations, and their successors or assigns, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale or rental, or sale or rental of televisions, stereophonic equipment or any other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any advertisement, directly or by implication, or in any oral statements made to a customer, that an individual can rent or purchase any of respondents' merchandise at a discount price, or an inexpensive price, or an advantageous price, or for any specified amount, payment or period of time without disclosing in every instance in a clear and meaningful way, the average prevailing retail price of the merchandise or comparable merchandise using the term "average retail price" together with either:

(a) The total dollar cost to the individual of purchasing the same merchandise under respondents' "rent-to-buy" plan, using the term "our total purchase price"; or

(b) The total charge for renting the same merchandise for 12 months, using the term "rent for one year."

In determining average retail price respondents shall conduct a statistical survey of 10 principal retail establishments in their trade area to establish the average retail price of the same or comparable merchandise, and obtain and maintain for at least 2 years all documents establishing the manner in which the survey was conducted, including:

(I) The name(s) of respondents' representatives who performed the survey;

(II) The names of the retail establishments surveyed;

(III) The date(s) of the survey;

(IV) Identification (including name of manufacturer and serial number) of the same or comparable merchandise surveyed;

(V) Price at which the same or comparable merchandise was offered for sale by the retail establishment surveyed.

2. Representing, directly or by implication, that respondents will perform any service or offer any merchandise free of charge to any customer.

3. Engaging in the sale or rental of their merchandise without furnishing each customer with a document which may be retained at the outset of the transaction, setting forth in writing every term and condition of said sale or rental transaction in a clear, conspicuous, and meaningful manner.

4. Misrepresenting, in any manner, the advantages, amounts, rates, terms, or conditions of respondents' sale or rental plans.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business or employment in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: July 11, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-12818 Filed 8-14-72;8:46 am]

[Docket No. C-2240]

PART 13—PROHIBITED TRADE PRACTICES

The Mekelberg Co., Inc., and Joseph Mekelburg

Subpart—Importing, selling or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear:*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, The Mekelburg Co., Inc., et al., New York, N.Y., Docket No. C-2240, July 3, 1972]

In the Matter of The Mekelburg Co., Inc., a Corporation, and Joseph Mekelburg, Individually and as an Officer of Said Corporation

Consent order requiring a New York City importer and jobber of various closeout products, including scarves, to cease importing, selling, or transporting products which fail to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents The Mekelburg Co., Inc., a corporation, its successors and assigns, and its officers, and Joseph Mekelburg, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting, or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or selling or offering for sale any

product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued, or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of said products, and effect recall of said products from such customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since December 31, 1971, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That the respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: July 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBEY, *Secretary.*

[FR Doc.72-12819 Filed 8-14-72;8:46 am]

[Docket No. 8840]

PART 13—PROHIBITED TRADE PRACTICES

Ocean Spray Cranberries, Inc., and Ted Bates & Co., Inc.

Subpart—Advertising falsely or misleadingly: § 13.135 *Nature of product or service;* § 13.170 *Qualities or properties of product or service:* 13.170–64 Nutritive.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Ocean Spray Cranberries, Inc., et al., New York, N.Y., Docket No. 8840, June 23, 1972]

In the Matter of Ocean Spray Cranberries, Inc., a Corporation, and Ted Bates & Co., Inc., a Corporation

Consent order requiring a Hanson, Mass., manufacturer, seller, and distributor of a cranberry juice drink and respondent's New York City advertising agency to cease disseminating any advertisement which represents that any product made by respondent contains as many or a greater variety of nutrients than orange or tomato juice or any other beverage, unless it is true; has more "food energy" than any other beverage unless clear disclosure is made that the term refers to calories only; or that their product is a "juice" unless it consists entirely of natural or reconstituted single strength fruit juice with no water added. Respondent is further ordered, for a period of 1 year, to devote at least one out of every four advertisements for their product—or, alternatively, 25 percent of media expenditures (excluding production costs)—to a prepared statement clarifying any alleged misleading advertisements.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent Ocean Spray Cranberries, Inc., a corporation, and respondent Ted Bates & Co., Inc., a corporation, and their officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale, or distribution of any beverage product of Ocean Spray Cranberries, Inc., or any beverage product which is represented in advertising as a product made with cranberries, forthwith cease and desist from:

1. Disseminating, or causing the dissemination of, any advertisement by means of the U.S. mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents, directly or by implication, that:

(a) Any such product contains nutrients of equivalent or greater variety or in greater quantity than those nutrients found in orange juice, tomato juice, or any other beverage, unless such product does in fact contain such an equivalence or excess of variety or quantity of such nutrients: *Provided, however,* That nothing contained herein shall be deemed to prohibit representations which merely propose using any such product in place of orange juice, tomato juice, or any other beverage without assigning any nutritional reason therefor.

(b) Any such product has more "food energy" than orange juice, tomato juice, or any other beverage unless it is clearly and conspicuously disclosed, and in close connection with said term, that "food energy" is a reference to calories.

(c) Any such product is a "juice," unless it consists of not less than 100 percent natural or reconstituted single strength fruit juice with no additional water added thereto; provided, however, nothing contained herein shall prohibit the addition of any ingredient to sweeten, flavor, preserve, fortify with vitamins, minerals or other nutrients, or color, or the like, such fruit juice; and further provided, however, nothing contained herein shall prohibit respondents from designating or describing any such product as "juice cocktail", "juice drink" or by any other name connoting a diluted or modified single strength juice; or by any name approved by any Federal agency having appropriate jurisdiction.

2. Disseminating, or causing the dissemination of, any advertisement by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, which contains any of the representations, acts, or practices prohibited in subparagraph 1 above.

II. *It is further ordered,* That respondent Ocean Spray Cranberries, Inc., shall forthwith cease and desist for a period of one (1) year, commencing no later than the date this order becomes final, from disseminating or causing the dissemination of any advertisement by means of the U.S. mails or by any other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for its product Ocean Spray Cranberry Juice Cocktail, unless at least one (1) out of every four (4) advertisements of equal time or space for each medium in each market, or, in the alternative, not less than twenty-five percent (25 percent) of the media expenditures (excluding production costs) for each medium in each market, be devoted to advertising as set forth in Exhibit A annexed hereto. In the case of radio and television advertising, such advertising

is to be disseminated in the same time periods and during the same seasonal periods as other advertising of Ocean Spray Cranberry Juice Cocktail; in the case of print advertising, such advertising is to be disseminated in the same print media as other advertising of Ocean Spray Cranberry Juice Cocktail.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: June 23, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

EXHIBIT A

If you've wondered what some of our earlier advertising meant when we said Ocean Spray Cranberry Juice Cocktail has more food energy than orange juice or tomato juice, let us make it clear: we didn't mean vitamins and minerals. Food energy means calories. Nothing more.

Food energy is important at breakfast since many of us may not get enough calories, or food energy, to get off to a good start. Ocean Spray Cranberry Juice Cocktail helps because it contains more food energy than most other breakfast drinks.

And Ocean Spray Cranberry Juice Cocktail gives you and your family Vitamin C plus a great wake-up taste. It's * * * the other breakfast drink.

(If this text is used for a broadcast advertisement, such advertisement will be prepared in a manner consistent with normal technical and artistic standards of production.)

[FR Doc.72-12820 Filed 8-14-72;8:46 am]

[Docket No. C-2242]

PART 13—PROHIBITED TRADE PRACTICES

Pizitz, Inc. and Richard A. Pizitz

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* 13.155-40 Exaggerated as regular and customary: 13.155-90 Savings and discounts subsidized: 13.155-100 Usual as reduced, special, etc. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Pizitz, Inc., et al., Birmingham, Ala., Docket No. C-2242, July 3, 1972]

In the Matter of Pizitz, Inc., a Corporation, and Richard A. Pizitz, Individually and as an Officer of Said Corporation

Consent order requiring a Birmingham, Ala., department store to cease falsely representing that any price of its fur products is a former price when said price is in excess of regular retail price; misrepresenting the amount of savings to the purchaser; misrepresenting the price of such product as reduced; and failing to maintain full and adequate records.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Pizitz, Inc., a corporation, its successors and assigns, and its officers, and Richard A. Pizitz, individually and as an officer of Pizitz, Inc., and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively advertising any fur product through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale or offering for sale of any such fur production and which:

1. Represents, directly or by implication, that any price whether accompanied or not by descriptive terminology is the respondents' former price of such fur product when such price is in excess of the price at which such fur product has been sold or offered for sale in good faith by the respondents on a regular course of business, or otherwise misrepresents the price at which such fur product has been sold or offered for sale by respondents.

2. Falsely or deceptively represents that savings are afforded to the purchaser of any such fur product or misrepresents in any manner the amount of savings to the purchaser of such fur product.

3. Falsely or deceptively represents that the price of any such fur product is reduced.

B. Failing to maintain full and adequate records disclosing the facts upon which pricing claims and representations of the types described in subsections (a), (b), (c), and (d) of rule 44 of the rules and regulations promulgated under the Fur Products Labeling Act, are based.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, Pizitz, Inc., such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation, which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation, Pizitz, Inc., shall forthwith distribute a copy of the order to each of its operating divisions.

It is further ordered, Respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: July 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary,*

[FR Doc.72-12821 Filed 8-14-72;8:46 am]

[Docket No. C-2239]

PART 13—PROHIBITED TRADE PRACTICES

Toshiba America, Inc., and Norman, Craig & Kummel, Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 *Advertising falsely or misleadingly:* 13.10-5 Knowingly by advertising agent; § 13.85 *Government approval, action, connection, or standards:* 13.85-60 Standards, specifications, or source: 13.85-70 Tests and investigations; § 13.195 *Safety:* 13.195-60 Product; § 13.265 *Tests and investigations.*

(Sec. 6, Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Toshiba America, Inc., et al., New York, N.Y., Docket No. C-2239, July 3, 1972]

In the Matter of Toshiba America, Inc., and Norman, Craig & Kummel, Inc., Corporations

Consent order requiring a New York City importer, distributor, and seller of microwave ovens, and its advertising agent, among other things, to cease misrepresenting the Department of Health, Education, and Welfare has issued a final performance standard for microwave oven leakage; misrepresenting the nature and extent to which their products comply with or conform to any governmental, industry or other regulation or standard; misrepresenting respondent's product has been checked or tested for compliance with the proposed radiation emission standard promulgated by the Department of Health, Education, and Welfare; misrepresenting, in any manner, the radiation leakage of any products; and misrepresenting that any private or governmental organization has tested or approved any products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent Toshiba America, Inc., a corporation, its successors and assigns and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of microwave ovens or other products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that:

1. The Department of Health, Education, and Welfare has issued a final performance standard or standards under the "Radiation Control Act" governing microwave oven leakage which will become effective on a designated date unless such standard or regulation has in fact been officially promulgated and is then officially scheduled to become effective on the represented date; or misrepresenting, in any manner any governmental, industry or other regulation or standard.

2. Every 1970 model Toshiba microwave oven complies with the proposed radiation emission standard promulgated by the Secretary of Health, Education, and Welfare pursuant to the "Radiation Control Act"; or misrepresenting, in any manner, the nature or extent to which any products comply with or conform to any governmental, industry or other regulation or standard.

3. Every 1970 model Toshiba microwave oven has been tested or checked by Toshiba for compliance with the proposed radiation emission standard promulgated by the Secretary of Health, Education, and Welfare pursuant to the "Radiation Control Act"; or misrepresenting, in any manner, the nature or extent to which any products have been tested to determine compliance with or conformity to any governmental, industry or other regulation or standard.

4. Every 1970 model Toshiba microwave oven available for resale to the purchasing public does not emit more than 5 milliwatts radiation leakage per square centimeter; or misrepresenting, in any manner, the radiation leakage of any products.

5. The 1970 model Toshiba microwave ovens have been tested for radiation leakage and have been approved by either Underwriters' Laboratories, Inc., or by the Federal Communications Commission; or misrepresenting, in any manner, that any private or governmental organization has tested or approved any products.

II. *It is further ordered,* That respondent, Norman, Craig & Kummel, Inc., its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of microwave ovens or other microwave products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication, the issuance and effectiveness of any governmental, industry or other regulation or standard when respondent, Norman, Craig & Kummel, Inc., knew or should have known that such representation was false or deceptive;

2. Representing directly or by implication that any such product complies with or conforms to any governmental, industry or other regulation or standard, when respondent, Norman, Craig & Kummel, Inc., knew or should have known that such representation was false or deceptive;

3. Representing directly or by implication the nature or extent to which any such product has been tested to determine compliance with or conformity to any governmental, industry or other regulation or standard when respondent, Norman, Craig & Kummel, Inc., knew or should have known that such representation was false or deceptive;

4. Representing directly or by implication the radiation leakage of any product when respondent, Norman, Craig & Kummel, Inc., knew or should have known that such representation was false or deceptive;

5. Representing directly or by implication that any such product has been tested or approved by any private or governmental program when respondent, Norman, Craig & Kummel, Inc., knew or should have known that such representation was false or deceptive.

III. *It is further ordered,* That respondents shall forthwith distribute a copy of this order to each of their operating departments, divisions, and subsidiaries engaged in the advertising, offering for sale, sale or distribution of consumer products manufactured or imported by Toshiba America, Inc.

It is further ordered, That respondent Toshiba America, Inc., deliver a copy of this order to each of its nonsubsidiary distributors and retailers, with whom Toshiba deals directly, engaged in the advertising, offering for sale, sale or distribution of microwave ovens and other consumer products manufactured or imported by Toshiba America, Inc.

It is further ordered, That each respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That each respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Issued: July 3, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-12822 Filed 8-14-72;8:46 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-213]

MERCHANDISE ENTERED IN THE VIRGIN ISLANDS

Documents Required on Entry

On January 4, 1972, there was published in the FEDERAL REGISTER (37 F.R. 19) a notice of proposed ruling which would require certain documents to be filed upon the entry into the Virgin Islands of the United States from the Customs territory of the United States of merchandise claimed to be duty free as the growth, product, or manufacture of the Customs territory of the United States. The purpose of the ruling is to enable Customs officers to determine the origin of such merchandise to insure the collection of the proper amount of duty. Interested parties were given an opportunity to submit in writing relevant data, views, or arguments regarding the proposed ruling.

After full consideration of all materials submitted and under the authority vested in the Secretary of the Treasury by section 36 of the Act of June 22, 1936, to make rules and regulations deemed necessary for the administration of the Customs laws in the Virgin Islands, which authority was delegated to the Commissioner of Customs by Treasury Department Order No. 165, Revised (T.D. 53634, 19 F.R. 7241), the following ruling is hereby adopted:

Upon entry into the Virgin Islands of the United States from the Customs territory of the United States of merchandise claimed to be duty free as the growth, product, or manufacture of the Customs territory of the United States, the following documents shall be filed in addition to the documents ordinarily required:

(1) When the entire shipment of merchandise is claimed to be duty free as the growth, product, or manufacture of the Customs territory of the United States, a declaration, in duplicate, by the importer, owner, consignee, or agent, in substantially the following form:

Vessel or Aircraft_____

Bill of Lading No._____

Date of Arrival_____

I, _____
(importer, owner, consignee, or agent)

of _____ do hereby de-
(name of firm)

clare that the above-described shipment contains only merchandise which is the

growth, product, or manufacture of the Customs territory of the United States.

Signature _____

Date _____

(2) When a part, but not the entire shipment, is claimed to be duty free as the growth, product, or manufacture of the Customs territory of the United States, a declaration shall be made, in duplicate, by the importer, owner, consignee, or agent, in substantially the following form:

Vessel or Aircraft_____

Bill of Lading No._____

Date of Arrival_____

I, _____
(importer, owner, consignee, or agent)

of _____ do hereby declare (name of firm) that the above-described shipment contains merchandise which is not the growth, product, or manufacture of the Customs territory of the United States. An entry will be made for that part of the shipment which is not the growth, product, or manufacture of the Customs territory of the United States within the prescribed time limits.

Signature _____

Date _____

(3) A copy of the commercial invoice or, if necessary, a pro forma invoice. Each line or item of the invoice shall be marked by the importer, owner, consignee or agent, to indicate the country of origin of the imported merchandise.

If the District Director in the Virgin Islands is satisfied that all the requirements of the law have been met, he may waive the requirements for filing the documents provided for in (1), (2), and (3) above.

As used above, the term "Customs territory of the United States" includes the States, the District of Columbia, and Puerto Rico.

Effective date. The above ruling shall become effective 30 days after the date of its publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: August 7, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-12875 Filed 8-14-72;8:52 am]

[T.D. 72-211]

ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Inspection, Search, and Seizure

On February 26, 1972, notice of proposed rule making regarding regulations pertaining to enforcement of Customs and navigation laws and inspection, search, and seizure along with miscellaneous amendments to Chapter I of Title 19 of the Code of Federal Regulations was published in the FEDERAL REGISTER (37 F.R. 4084). Interested persons were given 60 days to submit written comments, suggestions, or objections regarding the proposed regulations. No comments were received.

The proposed new Parts 161 and 162, and the miscellaneous amendments to Chapter I of Title 19 of the Code of Federal Regulations are hereby adopted as set forth below.

As part of the revision there is included a parallel reference table showing the relationship between the newly adopted sections and those which they supersede in 19 CFR Part 23.

Effective date. This revision and the conforming amendments shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: August 3, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

PART 1—GENERAL PROVISIONS

Part 1 is amended by adding § 1.9 to read as follows:

§ 1.9 Identification cards.

(a) Each Customs employee, other than an officer of the Customs Agency Service, who needs identification in the performance of his official duties shall be furnished an identification card on Customs Form 3135.

(b) The Commissioner will issue identification cards in appropriate cases to principal field officers. Each principal field officer shall be the issuing officer for the employees under his jurisdiction.

(c) Special identification cards signed by the Commissioner, shall be issued to officers of the Customs Agency Service. All officers of the Customs Agency Service are authorized to carry weapons in the performance of their official duties, and specific authorization is therefore omitted from their identification cards.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.12 [Amended]

In § 4.12(a)(5), the first sentence is amended by substituting "162.31" for "23.23" and the second sentence is amended by substituting "162.43" for "23.12".

Part 4 is amended by adding § 4.66b to read as follows:

§ 4.66b Pollution of coastal and navigable waters.

(a) When any Customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters in violation of section 13 of the Act of March 3, 1899 (33 U.S.C. 407), or that oil is being or has been discharged into or upon the coastal navigable waters of the United States in violation of the Oil Pollution Act of 1924 (33 U.S.C. 431–437) he shall promptly furnish to the district director a full report of the incident, together with the names of the witnesses, and, when practicable, a sample of the material discharged from the vessel in question.

(b) The district director shall forward this report immediately, without recommendation, to the District Engineer of the Department of the Army (at New York to the Supervisor of New York Harbor) for his decision as to prosecution and a copy of each such report shall be furnished to the bureau.

(c) If the vessel involved is of American registry, a copy of the report shall be furnished also to the District Commander of the Coast Guard district concerned.

(Sec. 13, 30 Stat. 1152, sec. 7, 43 Stat. 605, as amended; 33 U.S.C. 407, 436)

Part 4 is amended by adding § 4.100 to read as follows:

§ 4.100 Licensing of vessels of less than 30 net tons.

(a) The application for a license to import merchandise in a vessel of less than 30 net tons in accordance with section 6, Anti-Smuggling Act of August 5, 1935, shall be addressed to the Secretary of the Treasury and delivered to the district director of the district in which are located the ports where foreign merchandise is to be imported in such vessel.

(b) The application shall contain the following information:

(1) Name of the vessel, rig, motive power, and home port.

(2) Name and address of the owner.

(3) Name and address of the master.

(4) Net tonnage of the vessel.

(5) Kind of merchandise to be imported.

(6) Country or countries of exportation.

(7) Ports of the United States where the merchandise will be imported.

(8) Whether the vessel will be used to transport and import merchandise from a hovering vessel.

(9) Kind of document under which the vessel is operating.

(c) If the district director finds that the applicant is a reputable person and that the revenue would not be jeopardized by the issuance of a license, he may issue the license for a period not to exceed 12 months, incorporating therein any special conditions he believes to be necessary or desirable, and deliver it to the licensee.

(d) The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. This license is personal to the licensee and is not transferable.

(e) The Secretary of the Treasury or the district director in whose office the license was issued may revoke the license if any of its terms have been willfully or intentionally violated or for any other cause which may be considered prejudicial to the revenue or otherwise against the interest of the United States.

(Sec. 6, 49 Stat. 519; 19 U.S.C. 1706)

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

§ 8.25 [Amended]

In § 8.25, the last sentence in paragraph (d) is amended by substituting "162.51" for "23.20".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

Part 23 is amended by deleting all sections and footnotes appended thereto, except §§ 23.4 and 23.5.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

§ 123.71 [Amended]

In § 123.71, the last sentence is amended by substituting "Subpart B of Part 162", for "§ 23.11".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 161—GENERAL ENFORCEMENT PROVISIONS

Chapter I of Title 19 is amended by adding a new Part 161 to read as follows:

Sec.
161.0 Scope.

Subpart A—General Provisions

161.1 Customs supervision.
161.2 Enforcement for other agencies.
161.3 Prosecution for violation of Customs laws.
161.4 Bribery of Customs officers and employees.
161.5 Compromise of Government claims.

Subpart B—Informer's Compensation

161.11 Claim for compensation by informer.
161.12 Filing of claim.
161.13 Limitation on claims.
161.14 Payment of claims.
161.15 Informer's name confidential.

AUTHORITY: The provisions of this Part 161 issued under 80 Stat. 379, R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 66, 1624. Statutory provisions interpreted or applied and additional authority are cited in parentheses following the sections affected.

§ 161.0 Scope.

The provisions of this part set forth the authority and responsibility of Customs officers in the enforcement of Customs laws of the United States. Also included are provisions relating to import and export controls enforced for other administering agencies, prosecution for violation of Customs laws, bribery of Customs officers and employees, the compromise of Government claims and informer's compensation.

Subpart A—General Provisions

§ 161.1 Customs supervision.

Whenever any action or thing is required by the regulations in this chapter, or by any provision of the Customs or navigation laws, to be done or maintained under the supervision of Customs officers, such supervision shall be carried out as prescribed in the regulations of this chapter, or by instructions from the Secretary of the Treasury, or the Commissioner of Customs in particular cases. In the absence of a governing regulation or instruction, supervision shall be direct and continuous, or by such occasional verification as the principal Customs field officer shall direct if such officer shall determine that less intensive supervision will ensure proper enforcement of the law and protection of the revenue. Nothing in this section shall be deemed to warrant any failure to direct and furnish required supervision or to excuse any failure of a party in interest to comply with prescribed procedures for obtaining any required supervision.

(Sec. 22, 67 Stat. 520; 19 U.S.C. 1646a)

§ 161.2 Enforcement for other agencies.

(a) *Laws enforced by Customs Service for administering agencies.* Some of the laws enforced in whole or in part by the Customs Service for administering agencies are:

(1) Importations and exportations of arms, ammunition, implements of war, helium gas, and other munitions of war are governed by laws administered by the Internal Revenue Service and Department of State;

(2) Importations and exportations of controlled substances are governed by laws administered by the Bureau of Narcotics and Dangerous Drugs of the Department of Justice;

(3) Importations and exportations of gold are governed by laws administered by the Department of the Treasury;

(4) Importations and exportations of atomic energy source material, fissionable material, and equipment and devices for utilizing or producing fissionable material are subject to laws administered by the Atomic Energy Commission; and

(5) The exportation of articles, other than those previously mentioned herein, are subject to requirements of laws administered by the Department of Commerce.

(b) *Seizure for violation of law.* When articles are imported or are intended to be, are being, or have been exported from the United States in violation of law, such articles and any vessel, vehicle, or aircraft knowingly used in their transportation shall be seized and proceeded against.

(Sec. 5(b), 40 Stat. 415, as amended, 62 Stat. 716, sec. 502, 68 Stat. 1140, sec. 1, 40 Stat. 223, as amended, sec. 4, 48 Stat. 340, secs. 4, 7, 60 Stat. 759, 764, sec. 414, 68 Stat. 848, as amended; 12 U.S.C. 95a, 18 U.S.C. 545, 19 U.S.C. 1595(a), 22 U.S.C. 401, 31 U.S.C. 443, 42 U.S.C. 1804, 1807, 22 U.S.C. 1934)

§ 161.3 Prosecution for violation of Customs laws.

When there is a seizure or other violation of the Customs laws which requires legal proceedings by civil or criminal action, the district director or special agent in charge of the area involved shall furnish a report to the United States attorney in accordance with section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603). Action shall be taken under section 545, title 18, United States Code, only when there is clear indication of a violation of some specific provision of law.

(Sec. 603, 46 Stat. 754, as amended, sec. 1, 62 Stat. 716; 18 U.S.C. 545, 19 U.S.C. 1603)

§ 161.4 Bribery of Customs officers and employees.

If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a Customs officer or employee with the intent to control or influence such officer or employee in the performance of his official duties, the matter shall be referred to the United States attorney for prosecution under section 201, title 18, United States Code.

(Sec. 1, 76 Stat. 1119, as amended; 18 U.S.C. 201)

§ 161.5 Compromise of Government claims.

(a) *Offer.* An offer made pursuant to section 617, Tariff Act of 1930, as amended (19 U.S.C. 1617), in compromise of a Government claim arising under the Customs laws and the terms upon which it is made shall be stated in writing addressed to the Commissioner of Customs. The offer shall be limited to the civil liability of the proponent in the matter which is the subject of the Government's claim.

(b) *Deposit of specific sum tendered.* No offer in which a specific sum of money is tendered in compromise of a Government claim under the Customs laws will be considered by the Commissioner of Customs until due notice is received that such sum has been properly deposited in the name of the person submitting the offer with the Treasurer of the United States or a Federal Reserve bank. A proponent at a distance from a Federal Reserve bank may perfect his offer by tendering a bank draft for the amount of the offer payable to the Secretary of the Treasury for collection and deposit. If the offer is rejected, the money will be returned to the proponent.

(Sec. 617, 46 Stat. 757, as amended; 19 U.S.C. 1617)

Subpart B—Informer's Compensation

§ 161.11 Claim for compensation by informer.

(a) *Persons not officers of United States.* Any person not an officer of the United States who, in accordance with section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), detects, seizes, and reports any vessel, vehicle, merchandise, or baggage subject to seizure and

forfeiture under the Customs or navigation laws, or who furnishes original information concerning any fraud upon the Customs revenue or a violation of the Customs or navigation laws perpetrated or contemplated, may file a claim for an award of compensation. Any Customs officer to whom the information is furnished shall advise the informant of his right to claim such an award.

(b) *Officer of the United States.* Officers of the United States are precluded by section 620, Tariff Act of 1930 (19 U.S.C. 1620) from directly or indirectly receiving or contracting for any portion of a compensation award.

(Sec. 619, 620, 46 Stat. 758, as amended; 19 U.S.C. 1619, 1620)

§ 161.12 Filing of claim.

A claim for an award of compensation shall be filed in duplicate on Customs Form 4623 with the district director, but any Customs officer may receive such a claim for transmittal to the district director. Additional copies of the claim required by the district director shall be furnished on demand. Application may be made directly to the Commissioner of Customs where for any reason a claim has not been transmitted by the district director to the Commissioner. No claim for compensation shall be forwarded to the Commissioner unless a sum of not less than $5 is available for an award.

(Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.13 Limitation on claims.

Claimants may be paid 25 per centum of the net amount recovered from duties withheld, or any fine, penalty, or forfeiture incurred, but such amount shall not exceed $50,000 regardless of the number of recoveries growing out of the information furnished.

(Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.14 Payment of claims.

No claim under section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), shall be paid until the amount recovered has been deposited in the proper account. Claims shall not be paid out of the proceeds of sale.

(Sec. 619, 46 Stat. 758, as amended; 19 U.S.C. 1619)

§ 161.15 Informer's name confidential.

The informer's name and address shall be kept confidential. No files nor information concerning the informer shall be permitted to get into the possession of unauthorized persons. No information shall be revealed which might aid the offenders in identifying the informer.

PART 162—INSPECTION, SEARCH, AND SEIZURE

Chapter I of Title 19 is amended by adding a new Part 162 to read as follows:

Sec.

AUTHORITY: The provisions of this Part 162 issued under 80 Stat. 379, R.S. 251, as amended, sec. 624, 46 Stat. 759, 5 U.S.C. 301, 19 U.S.C. 66, 1624. The provisions of subpart B also issued under sec. 595, 46 Stat. 752, as amended; 19 U.S.C. 1595. Statutory provisions interpreted or applied and additional authority are cited in parentheses following the sections affected.

§ 162.0 Scope.

This part sets forth the provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property and the forfeiture and sale thereof. It also contains provisions for Customs enforcement of the controlled substances, narcotics and marihuana laws. Provisions relating to petitions for remission or mitigation of fines, penalties, and forfeitures incurred are contained in Part 171 of this chapter.

Subpart A—Inspection, Examination, and Search

§ 162.1 Inspection of importer's books, records, and other papers.

Before demanding an inspection of any importer's books, correspondence, or records pursuant to section 511, Tariff Act of 1930, as amended (19 U.S.C. 1511), which authorizes such inspections and the prohibition of importations of merchandise or the withholding of delivery of merchandise for an importer failing to permit a duly accredited officer to inspect books, correspondence, or other records, the investigating officer shall present a written request for such inspection signed by the Commissioner of Customs, Regional Commissioner of Customs, district director of Customs, or judge of the U.S. Customs Court.

(Sec. 511, 46 Stat. 733 as amended; 19 U.S.C. 1511)

§ 162.2 Examination of importer and others.

The citation of a person to appear and testify pursuant to section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509), authorizing such examination, shall be in writing and signed by the district director. It shall indicate clearly the merchandise or entries concerning which the examination will be held and the documents required to be presented. It shall be addressed to the person to be examined and shall state the specific time when and place where his personal appearance is required. Such citation shall be served in person or by registered or certified mail.

(Sec. 509, 46 Stat. 733, as amended; 19 U.S.C. 1509)

§ 162.3 Boarding and search of vessels.

(a) *General authority.* A Customs officer, for the purpose of examining the manifest and other documents and papers and examining, inspecting and searching the vessel, may at any time go on board:

(1) Any vessel at any place in the United States or within the Customs waters of the United States;

(2) Any American vessel on the high seas, when there is probable cause to believe that such vessel is violating or has violated the laws of the United States; or

(3) Any vessel within a Customs-enforcement area designated such under the provisions of the Anti-Smuggling Act (Act of August 5, 1935, as amended, 49 Stat. 517; 19 U.S.C. 1701, 1703–1711), but Customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

(b) *Search of army or navy transport.* If the district director or special agent in charge believes that sufficient grounds exist to justify a search of any army or navy transport, the facts shall be reported to the commanding officer or master of such transport with a request that he cause a full search to be made, and advise the district director or special agent in charge of the result of such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the district director or special agent in charge believes that sufficient grounds exist to justify the continuance of Customs supervision of the vessel, the commanding officer of the vessel shall be advised accordingly.

(Secs. 455, 581, 46 Stat. 716, as amended, 747, as amended; 19 U.S.C. 1455, 1581)

§ 162.4 Search for letters.

A Customs officer may search vessels for letters which may be on board or may have been conveyed contrary to law on board any vessel or on any post route, and shall seize such letters and deliver them to the nearest post office or detain them subject to the orders of the postal authorities.

(Secs. 604, 605, 84 Stat. 728; 39 U.S.C. 604, 605)

§ 162.5 Search of arriving vehicles and aircraft.

A Customs officer may stop any vehicle and board any aircraft arriving in the United States from a foreign country for the purpose of examining the manifest and other documents and papers and examining, inspecting, and searching the vehicle or aircraft.

(Sec. 581, 46 Stat. 747, as amended, sec. 1109, 72 Stat. 799, as amended; 19 U.S.C. 1581, 49 U.S.C. 1509)

§ 162.6 Search of persons, baggage, and merchandise.

All persons, baggage, and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection and search by a Customs officer. District directors and special agents in charge are authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended (19 U.S.C. 1467), of persons, baggage, or merchandise, even though such persons, baggage, or merchandise were inspected, examined, searched, or taken on board the vessel at another port or place in the United States or the Virgin Islands, if such action is deemed necessary or appropriate.

(Secs. 461, 496, 46 Stat. 717, 727, as amended, sec. 11, 52 Stat. 1083, as amended; 19 U.S.C. 1461, 1467, 1496)

§ 162.7 Search of vehicles, persons, or beasts.

A Customs officer may stop, search, and examine any vehicle, person, or beast, or search any truck or envelope wherever found, in accordance with section 3061 of the Revised Statutes (19 U.S.C. 482).

Subpart B—Search Warrants

§ 162.11 Authority to procure warrants.

Customs officers are authorized to procure search warrants under the provisions of section 595, Tariff Act of 1930, as amended (19 U.S.C. 1595). However, a Customs officer who is lawfully on any premises and is able to identify merchandise which has been imported contrary to law may seize such merchandise without a warrant. If merchandise is in a building on the boundary, see § 123.71 of this chapter.

§ 162.12 Service of search warrant.

A search warrant shall be served in person by the officer to whom it is issued and addressed. In serving a search warrant, the officer shall leave a copy of the warrant with the person in charge or possession of the premises, or in the absence of any person, the copy shall be left in some conspicuous place on the premises searched.

§ 162.13 Search of rooms not described in warrant.

When a Customs officer is acting under a warrant to search the rooms in a building occupied by persons named or described in the warrant, no search shall be made of any rooms in such building which are not described in the warrant as occupied by such persons.

§ 162.14 Removal of letters and other documents.

Customs officers to whom a warrant is issued to search for and seize merchandise are without authority to remove letters and other documents and records, unless they themselves are instruments of crime and are seized as an incident to a lawful arrest.

§ 162.15 Receipt for seized property.

A receipt for property seized under a search warrant shall be left with the person in charge or possession of the premises, or in the absence of any person, the receipt shall be left in some conspicuous place on the premises searched.

Subpart C—Seizures

§ 162.21 Responsibility and authority for seizures.

(a) *Seizures by Customs officers.* Any Customs officer having reasonable cause to believe that any law, the enforcement of which is within the jurisdiction of the Customs Service, has been violated by reason of which any property has become subject to forfeiture, shall seize such property if available. A receipt for seized property shall be given at the time of seizure to the person from whom the property is seized.

(b) *Seizure by persons other than Customs officers.* The district director may adopt a seizure made by a person other than a Customs officer if such district director has reasonable cause to believe that the property is subject to forfeiture under the Customs laws.

(c) *Seizure by State official.* If a duly constituted State official has seized any merchandise, vessel, aircraft, vehicle, or other conveyance under provisions of the statutes of such State, such property shall not be seized by a Customs officer unless the property is voluntarily turned over to him to be proceeded against under the Federal statutes.

(R.S. 3061, secs. 531, 582, 602, 46 Stat. 747, as amended, 748, 754, as amended; 19 U.S.C. 482, 1581, 1582, 1602)

§ 162.22 Seizure of conveyances.

(a) *General applicability.* If it shall appear to any officer authorized to board conveyances and make seizures that there has been a violation of any law of the United States whereby a vessel, vehicle, aircraft, or other conveyance, or any merchandise on board of or imported by such vessel, vehicle, aircraft, or other conveyance is liable to forfeiture, the officer shall seize such conveyance and arrest any person engaged in such violation. Common carriers are exempted from seizure except under certain specified conditions as provided for in section 594, Tariff Act of 1930 (19 U.S.C. 1594).

(b) *Facilitating importation contrary to law.* Every vessel, vehicle, animal, aircraft, or other conveyance which is being or has been used in, or to aid or facilitate, the importation, bringing in, unlading, landing, removal, concealing, harboring, or subsequent transportation of any article which is being, or has been introduced or attempted to be introduced into the United States contrary to law, shall be seized and held subject to forfeiture, and any person who directs, assists financially or otherwise, or is in any way concerned in any such unlawful activity shall be liable to a penalty equal to the value of the article or articles involved.

(c) *Common carrier clearance.* Unless specifically authorized by law, clearance of vessels within the common carrier exception of section 594, Tariff Act of 1930 (19 U.S.C. 1594), shall not be refused for the purpose of collecting a fine imposed upon the master or owner, unless either of them was a party to the illegal act. The Government's remedy in such cases is limited to an action against the master or owner.

(d) *Retention of vessel or vehicle pending penalty payment.* If a penalty is incurred under section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), by a person in charge of a vessel or vehicle and the vessel or vehicle is not subject to seizure, such vessel or vehicle may be held by the district director under section 594, Tariff Act of 1930, until the penalty incurred by the person in charge has been settled.

(e) *Maritime Administration vessels; exemption from penalty.* (1) When a vessel owned or chartered under bareboat charter by the Maritime Administration and operated for its account becomes liable for the payment of a penalty incurred for violation of the Customs revenue or navigation laws, clearance of the

vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(2) This exemption shall not in any way be considered to relieve the master of any such vessel or other person incurring such penalties from personal liability for payment.

(Sec. 1, 62 Stat. 717, secs. 459, 460, 594, 46 Stat. 717, as amended, 751, secs. 1, 3–8, 49 Stat. 517, 518, 519, as amended, 520; 18 U.S.C. 546, 19 U.S.C. 1459, 1460, 1594, 1701, 1703–1708)

Subpart D—Procedure When Fine, Penalty, or Forfeiture Incurred

§ 162.31 Notice of fine, penalty, or forfeiture incurred.

(a) *Notice.* Written notice of any fine or penalty incurred as well as any liability to forfeiture shall be given to each party that the facts of record indicate has an interest in the claim or seized property. The notice shall also inform each interested party of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), or any other applicable statute authorizing mitigation of penalties or remission of forfeitures, in accordance with Part 171 of this chapter.

(b) *Demand for deposit in case of smuggled articles of small value.* In the case of smuggled articles of small value, demand shall be made for immediate deposit of an amount equivalent to the domestic value of the articles on account of the liability to a penalty incurred as distinct from liability of the goods to forfeiture. Such sum shall be deposited whether or not a petition for relief is filed in accordance with Part 171 of this chapter. A demand for deposit need not be made in connection with any liability incurred by the master of a vessel under the provisions of section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453).

§ 162.32 Where petition for relief not filed.

(a) *Fines and penalties.* If the person liable for a fine or penalty for any violation of the Customs or navigation laws fails to petition for relief in accordance with Part 171 of this chapter, or pay or arrange to pay the penalty within 60 days from the date of mailing of the notice of violation as provided in section 162.31, the case shall be referred immediately to the U.S. attorney for appropriate action unless other action is expressly authorized by the Commissioner of Customs. However, if it appears that the person liable for the penalty is absent from the United States or during the 60-day period was absent for more than 30 days, the district director may withhold referral for a further reasonable time.

(b) *Appraised value of seized property exceeds $2,500.* When the appraised value of seized property exceeds $2,500 and neither a petition for relief in accordance with Part 171 of this chapter nor an offer to pay the domestic value as provided for in § 162.44 is made within a reasonable time, the district director shall report the facts to the U.S. attorney for the judicial district in which the seizure was made.

(Secs. 603, 610, 46 Stat. 754, as amended, 755, as amended; 19 U.S.C. 1603, 1610)

Subpart E—Treatment of Seized Merchandise

§ 162.41 Merchandise entered by false invoice, declaration, other document or statement subject to forfeiture.

(a) *Election to proceed against merchandise or value when forfeiture incurred.* When merchandise or the value thereof is subject to forfeiture under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), including any article seized under the provisions of section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), the district director may elect to proceed against the merchandise or its domestic value. However, if the merchandise is in the possession of an innocent purchaser, it shall not be seized. In such cases, or when the merchandise is not available for seizure, the district director shall proceed to recover the domestic value.

(b) *Claim for domestic value unpaid.* If a claim for domestic value is made by the district director, and it is not paid or settled as prescribed in this part or Part 171 of this chapter, the claim shall be forwarded to the U.S. attorney for appropriate action.

(c) *Liability for duties unaffected by forfeiture.* When an entry covering merchandise subject to the provisions of section 592, Tariff Act of 1930, as amended, has been made, it shall be liquidated and the duties collected as though no forfeiture had been incurred. Appraisement of the merchandise or liquidation of the entry shall not be withheld because of the pending forfeiture proceedings. When merchandise not covered by an entry is subject to section 592, Tariff Act of 1930, as amended, a demand shall be made on the importer for payment of the duty estimated to be due on such merchandise in addition to the seizure of the merchandise or the demand for forfeiture value. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

§ 162.42 Proceedings by libel.

If seizure is made under a statute which provides that the property may be seized and proceeded against by libel, the summary forfeiture procedures set forth in §§ 162.45, 162.46, and 162.47 do not apply. Such cases shall be referred to the U.S. attorney. The district director may request the U.S. attorney to seek a decree of forfeiture providing for delivery of the property to the district director for sale or other appropriate disposition, if such property is not to be retained for official use.

§ 162.43 Appraisement.

(a) *Property under seizure and subject to forfeiture.* Seized property shall be appraised as required by section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). The term "domestic value" as used therein shall mean the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(b) *Property not under seizure.* With respect to property not under seizure, the basis for the claim for forfeiture value or for assessment of penalty is the domestic value as defined in paragraph (a) of this section, except that the value shall be fixed as of the date of the violation. In the case of entered merchandise, the date of the violation shall be the date of the entry, or the date of the filing of the document, or the commission of the act forming the basis of the claim, whichever is later.

(c) *Prohibited importation.* For the purpose of condemnation or forfeiture only, the value of all seized merchandise, the importation of which is prohibited, shall be held not to exceed $2,500. However, seized merchandise, the importation of which is absolutely prohibited, shall be appraised at its foreign-market value, since such merchandise has no domestic value.

(Secs. 606, 608, 46 Stat. 754, as amended, 755 as amended; 19 U.S.C. 1606, 1608)

§ 162.44 Release on payment of appraised value.

(a) *Value exceeding $50,000.* Any offer to pay the appraised domestic value of seized merchandise in order to obtain the immediate release of property which was seized under the Customs laws and exceeding $50,000 in appraised domestic value, or which was seized under the navigation laws, shall be in writing, addressed to the Commissioner of Customs, signed by the claimant or his attorney, and shall contain an assent to forfeiture and a waiver of further proceedings. It shall be submitted in duplicate to the district director for the district in which the property was seized. Proof of ownership shall be submitted with the application if the facts in the case make such action necessary.

(b) *Value not over $50,000*—(1) *Authority to accept offer.* The district director is authorized to accept a written offer pursuant to section 614, Tariff Act of 1930, as amended (19 U.S.C. 1614), to pay the appraised domestic value of property seized under the Customs laws and to release such property if:

(i) The appraised domestic value of the seized property does not exceed $50,000;

(ii) The district director is satisfied that the claimant has, in fact, a substantial interest in the property;

(iii) Entry of the seized property into the commerce of the United States is not prohibited by law; and

(iv) The claimant or his attorney has executed an assent to forfeiture and a waiver of further proceedings on Customs Form 4607.

(2) *Referral of offer.* The district director shall refer to the Commissioner

of Customs any offer where it appears that the claimant does not have a substantial interest in the seized property or where it appears it would not be in the best interest of the United States to accept.

(c) *Retention of property.* The district director shall retain custody of the property pending payment of the amount of the offer when the application is approved.

(Sec. 614, 46 Stat. 757, as amended; 19 U.S.C. 1614)

§ 162.45 Summary forfeiture where value not over $2,500: Notice of seizure and sale.

(a) *Contents.* The notice required by section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intent to forfeit and sell or otherwise dispose of according to law property not exceeding $2,500 in value shall:

(1) Describe the property seized and in the case of motor vehicles, specify the motor and serial numbers;

(2) State the time, cause, and place of seizure;

(3) State that any person desiring to claim the property must appear at a designated place and file with the district director within 20 days from the date of the first publication of the notice a claim to such property and a bond in the sum of $250, in default of which the property will be disposed of in accordance with the law; and

(4) State the name and place of residence of the person to whom any vessel or merchandise seized for forfeiture under the navigation laws belongs or is consigned, if that information is known to the district director.

(b) *Publication.* When the appraised value of any property in one seizure from one person other than narcotics and dangerous drugs exceeds $250, the notice shall be published in a newspaper of general circulation in the Customs district and the judicial district in which the property was seized for at least 3 successive weeks. In all other cases, the notice shall be published by posting in a conspicuous place accessible to the public in the customhouse nearest the place of seizure and in the customhouse at the headquarters port for the Customs district, with the date of posting noted thereon, and shall be kept posted for at least 3 successive weeks. Articles of small value of the same class or kind included in two or more seizures shall be advertised as one unit.

(c) *Delay of publication.* Publication of the notice of seizure and intent to summarily forfeit and dispose of goods valued not over $2,500 may be delayed for a period not to exceed 60 days in those cases where the district director has reason to believe that a petition for administrative relief in accord with Part 171 of this chapter will be filed.

§ 162.46 Summary forfeiture where value not over $2,500: Disposition of goods.

(a) *General.* If no petition for relief from the forfeiture is filed in accordance with the provision of Part 171 of this chapter, or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609).

(b) *Articles required to be inspected by other Government agencies.* Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the laws and regulations of that agency, and if found not to meet such requirements, they shall be destroyed forthwith.

(c) *Sale*—(1) *General.* If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of Part 20 of this chapter. The district director may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses.

(2) *Transfer to another district for sale.* Property shall be moved to and sold in such other Customs district as the Commissioner of Customs may direct pursuant to the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611), if:

(i) The laws of a State in which property is seized and forfeited prohibit the sale of such property; or

(ii) The Commissioner is of the opinion that the sale of forfeited property may be made more advantageously in another Customs district.

(d) *Destruction.* If, after summary forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale, the district director may order the destruction of the property. Any vessel or vehicle summarily forfeited for violation of any law respecting the Customs revenue may be destroyed in lieu of the sale thereof when such destruction is authorized by the Commissioner of Customs to protect the revenue.

(Secs. 609, 611, 46 Stat. 755, as amended, sec. 5, 49 Stat. 519; 19 U.S.C. 1609, 1611, 1705)

§ 162.47 Claim for property subject to summary forfeiture.

(a) *Filing of claim.* Any person desiring to claim under the provisions of section 608, Tariff Act of 1930 (19 U.S.C. 1608), seized property not exceeding $2,500 in value and subject to summary forfeiture, shall file a claim to such property with the district director within 20 days from the date of the first publication of the notice prescribed in section 162.45.

(b) *Bond for costs.* The bond in the penal sum of $250 required by section 608, Tariff Act of 1930, to be filed with a claim for seized property shall be on Customs Form 4615. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a particular description of seized article, claim for which is covered by the within bond, to wit:

The foregoing list is correct.

----------, Claimant

Attest:

(c) *Claimant not entitled to possession.* The filing of a claim and the giving of a bond pursuant to section 608, Tariff Act of 1930, shall not be construed to entitle the claimant to possession of the property. Such action only stops the summary forfeiture proceeding.

(d) *Report to the U.S. attorney.* When the claim and bond are filed within the 20-day period, the district director shall report the case to the U.S. attorney for the institution of condemnation proceedings.

(Sec. 608, 46 Stat. 755, as amended; 19 U.S.C. 1608)

§ 162.48 Summary sale of perishable and other property valued not over $2,500.

Seized property which is perishable or otherwise enumerated in section 612, Tariff Act of 1930, as amended (19 U.S.C. 1612), and is valued at not over $2,500 shall be advertised for sale and sold at public auction at the earliest possible date. The district director shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable. This notice shall be of sale only and not notice of seizure and intent to forfeit. The proceeds of the sale shall be held subject to the claims of parties in interest in the same manner as the seized property would have been subject to such claims.

(Sec. 612, 46 Stat. 756, as amended; 19 U.S.C. 1612)

§ 162.49 Forfeiture by court decree.

(a) *Report to the U.S. attorney.* When it is necessary to institute legal proceedings in order to forfeit seized property, or to forfeit the value of property subject to forfeiture, the district director or the special agent in charge of the area involved shall furnish a report to the U.S. attorney in accordance with the provisions of section 603, Tariff Act of 1930, as amended (19 U.S.C. 1603).

(b) *Bonding of seized property.* When a claimant desires to file a bond for the release of seized property which is the subject of a court proceeding, he shall be referred to the U.S. attorney. The Government is entitled to recover the penal sum of the bond if forfeiture is then decreed.

(Sec. 201, 72 Stat. 1412; 26 U.S.C. 5633(c))

§ 162.50 Forfeiture by court decree: Disposition.

(a) *Sale.* Forfeited property decreed by the court for sale or disposition by the district director shall be disposed of in the same manner as property summarily forfeited. (See § 162.46.)

(b) *Transfer to other districts for sale.* If the laws of the State in which property is seized and forfeited prohibit

the sale of such property, or if the Commissioner of Customs is of the opinion that the sale of forfeited property may be made more advantageously in another Customs district, application may be made to the court to permit disposition in accordance with the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611). If the court permits such disposition, the property shall be moved to and sold in such other district as the Commissioner may direct provided it has been cleared for sale.

(c) *Destruction*—(1) *Proceeds of sale not sufficient.* Property forfeited under a decree of any court may be destroyed if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or the Commissioner of Customs for disposition in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611).

(2) *For protection of the revenue.* Any vessel or vehicle forfeited under a decree of any court for violation of any law respecting the Customs revenue may be destroyed in lieu of sale when such destruction is authorized by the Commissioner of Customs to protect the revenue if it is provided in the decree of forfeiture that the property shall be delivered to the Secretary of the Treasury or Commissioner of Customs for disposition under the provisions of 19 U.S.C. 1705.

(Sec. 611, 46 Stat. 755, sec. 5, 49 Stat. 519; 19 U.S.C. 1611, 1705)

§ 162.51 Disposition of proceeds of sale of forfeited property.

(a) *Payment of expense incurred.* Expenses incurred by Customs officers in connection with seizures and forfeitures shall be paid from the Customs appropriation. In the event that the forfeited property has been authorized for transfer to another Federal agency for official use, the receiving agency shall reimburse the Customs appropriation for the costs incurred for moving and storing such property from the date of seizure to the date of delivery. If the property is cleared for sale, the Customs appropriation shall be reimbursed from the proceeds of the sale for all expenses paid from such appropriation in connection with the seizure and forfeiture of such property.

(b) *Distribution of proceeds.* If the forfeiture and sale of property is pursuant to court proceedings, or the imposition of a fine or penalty results from a prosecution instituted in a civil or criminal case under the Customs laws, the sum recovered, after deducting all proper charges for marshal's fees, court costs, and other similar costs, is payable to the district director who shall distribute it without delay in accordance with section 613, Tariff Act of 1930, as amended (19 U.S.C. 1613).

Subpart F—Controlled Substances, Narcotics, and Marihuana

§ 162.61 Importing and exporting controlled substances.

It shall be unlawful to import to or export from the United States any controlled substance or narcotic drug listed in schedules I through V of the Controlled Substances Act (Sec. 202, 84 Stat. 1247; 21 U.S.C. 812), unless there has been compliance with the provisions of said Act, the Controlled Substances Import and Export Act and the regulations of the Bureau of Narcotics and Dangerous Drugs.

(Secs. 1002, 1003, 1007, 84 Stat. 1285, 1286, 1288; 21 U.S.C. 952, 953, 957)

§ 162.62 Permissible controlled substances on vessels, aircraft, and individuals.

Upon compliance with the provisions of the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801), the Controlled Substances Import and Export Act (84 Stat. 1285; 21 U.S.C. 951), and the regulations of the Bureau of Narcotics and Dangerous Drugs (21 CFR 301.28, 301.29, 31[illegible].28), controlled substances listed in schedules I through V of the Controlled Substances Act may be held:

(a) On vessels engaged in international trade in medicine chests and dispensaries.

(b) In aircraft operated by an air carrier under a certificate or permit issued by the Federal Aviation Administration for stocking in medicine chests and first aid packets.

(c) By an individual where lawfully obtained for personal medical use or for administration to an animal accompanying him to enter or depart the United States.

(Secs. 1002, 1006, 84 Stat. 1285, 1288; 21 U.S.C. 952, 956)

§ 162.63 Arrests and seizures.

Arrests and seizures under the Controlled Substances Act (84 Stat. 1242, 21 U.S.C. 801) and the Controlled Substances Import and Export Act (84 Stat. 1285, 21 U.S.C. 951), shall be handled in the same manner as other Customs arrests and seizures. Controlled substances imported contrary to law shall be seized and forfeited in the manner provided in sections 607 and 608, Tariff Act of 1930, as amended (19 U.S.C. 1607, 1608). (See §§ 162.42 and 162.45.)

(Sec. 511(d), 1016, 84 Stat. 1277, 1291; 21 U.S.C. 881(d), 966)

§ 162.64 Custody of controlled substances.

All controlled substances seized by a Customs officer shall be delivered immediately into the custody of the district director in whose district the seizure is made, together with a full report of the circumstances of the seizure.

(Sec. 511(d), 1016, 84 Sat. 1277, 1291; 21 U.S.C. 881(d), 966)

§ 162.65 Penalties for failure to manifest narcotic drugs or marihuana.

(a) *Cargo or baggage containing unmanifested narcotic drugs or marihuana.* When a package of regular cargo or a passenger's baggage otherwise properly manifested is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not shown as such on the manifest, the penalties prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed with respect to such narcotic drug or marihuana.

(b) *Unmanifested narcotic drugs.* When an unmanifested narcotic drug is found on board of, or after having been unladen from, a vessel or vehicle the penalties prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed. The penalty shall be applied without exception and without regard to any question of negligence or responsibility.

(c) *Notice and demand for payment of penalty.* A written notice and demand for payment of the penalty for failure to manifest incurred under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), together with a copy of section 584, shall be sent to the master of the vessel or the person in charge of the vehicle and to the owner of the vessel or vehicle. In the case of a vessel, if bond has been given, the notice also shall be sent to each surety. When a petition for relief from such penalty has been filed in accordance with Part 171 of this chapter, and a decision has been made thereon, the district director shall send notice of such decision to the interested persons together with a demand for any payment required under the terms of such decision.

(d) *Referral to the U.S. attorney.* If the penalty incurred under section 584, is not paid or a petition filed as provided in Part 171 of this chapter, or if payment is not made in accordance with the decision on a petition or a supplemental petition, the district director shall refer the case to the U.S. attorney for appropriate action.

(e) *Withholding clearance of vessel.* Where a penalty has been incurred under section 584, Tariff Act of 1930, as amended, for failure to manifest narcotic drugs, clearance of the vessel involved shall be withheld until the penalty is paid or a bond satisfactory to the district director is given for the payment thereof unless

(1) The narcotics were discovered in a passenger's baggage and the district director is satisfied that neither the master nor any of the officers nor the owner of the vessel knew or had any reason to know or suspect that the narcotics had been on board the vessel, or

(2) Prior authority for the clearance without payment of the penalty or the furnishing of the bond is obtained from the Bureau.

(Sec. 584, 46 Stat. 748, as amended, secs. 1010, 1011, 84 Stat. 1290; 19 U.S.C. 1584, 21 U.S.C. 960, 961)

§ 162.66 Penalties for unlading narcotic drugs or marihuana without a permit.

In every case where a narcotic drug or marihuana is unladen without a permit, the penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall be assessed. Penalties shall be assessed under this section when a package of regular cargo or a passenger's baggage otherwise covered by a

permit to unlade is found to contain any narcotic drug or marihuana imported for sale or other commercial purpose and not specifically covered by a permit to unlade.

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in revised Parts 161 and 162 to 19 CFR Part 23)

Revised section	Superseded section
161.0	New.
161.1	23.35.
161.2(a)	23.31 (a)–(c).
161.2(b)	23.31(d).
161.3	23.21(a); 23.8
161.4	23.30.
161.5	23.26.
161.11	23.27 (a).
161.12	23.27 (b), (c) and (e).
161.13	New.
161.14	23.27 (d).
161.15	New.
162.0	New.
162.1	23.28.
162.2	23.29.
162.3(a)	23.1(a).
162.3(b)	23.1(c).
162.4	23.1(c).
162.5	23.1(d).
162.6	23.1(e).
162.7	23.1(d).
162.11	New; 23.11(g).
162.12	23.11 (e) and (f).
162.13	23.11(d).
162.14	23.11(c).
162.15	23.11(a).
162.21(a)	23.11(a).
162.21(b)	23.11(a).
162.21(c)	23.11(b).
162.22	23.3 (a)–(d); 23.10.
162.31(a)	23.23(a).
162.31(b)	23.23(b).
162.32(a)	23.23(c).
162.32(b)	23.21(b).
162.41(a)	23.6 (a) and (c).
162.41(b)	23.6(b).
162.41(c)	23.6(d).
162.42	23.17(d).
162.43(a)	23.12 (a) and (b).
162.43(b)	23.12(e).
162.43(c)	23.12 (d) and (c).
162.44(a)	23.14(b).
162.44(b)	23.14(a).
162.44(c)	23.14CM.
162.45(a)	23.16(a).
162.45(b)	23.16(a).
162.45(c)	New.
162.45(d)	New.
162.46(a)	23.17(a).
162.46(b)	23.16(b).
162.46(c)(1)	23.17 (b) and (c).
162.46(c)(2)	23.19(a).
162.46(d)	23.19 (b) and (c).
162.47(a)	New.
162.47(b)	23.13(a).
162.47(c)	23.13(b).
162.47(d)	23.21(c).
162.48	23.18.
162.49(a)	23.21(a).
162.49(b)	23.22.
162.50(a)	New.
162.50(b)	23.19(a).
162.50(c)	23.19(b).
162.51	23.20 (a) and (b).
162.61	23.9 (i) and (k).
162.62	23.9(h).
162.63	23.9(b).
162.64	23.9(j).
162.65(a)	23.9(b).
162.65(b)	23.9(a).
162.65(c)	23.9 (f) and (g).
162.65(d)	23.9(f).
162.65(e)	23.9(e).
162.66	23.9 (c) and (d).

[FR Doc. 72-12874 Filed 8-14-72;8:52 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 694—MINIMUM WAGE RATES IN INDUSTRIES IN THE VIRGIN ISLANDS

Definition

On June 23, 1972, President Nixon signed into law the Education Amendments of 1972 (Public Law No. 92-318; 86 Stat. 235). The Education Amendments of 1972 amended the Fair Labor Standards Act in two respects. This document relates to the amendment which extended the general coverage of the Fair Labor Standards Act to employees of preschools. Congress amended both sections 3(r)(1) and 3(s)(4) by deleting the words "an elementary or secondary school" and substituting the words "a preschool, elementary, or secondary school". These changes became effective on July 1, 1972.

By such action Congress has, in effect, amended the definition of the education industry in the Virgin Islands by adding preschools. To accord with this congressional intent as reflected in the Education Amendments of 1972, paragraph (b) and subdivision (ii) of subparagraph (5) of paragraph (b) of § 694.1 of Part 694, Code of Federal Regulations are amended to read as follows:

§ 694.1 Wage rates.

* * * * *

(b) *1966 coverage classifications.* The classifications in this paragraph (b) include only those activities of employees in the Virgin Islands which were brought within the purview of section 6 of the Fair Labor Standards Act of 1938 by the Fair Labor Standards Amendments of 1966 or by section 906 of the Education Amendments of 1972.

* * * * *

5. *General Classification.* (i) The minimum rate for this classification is $1.60 an hour. * * *

(ii) This classification is defined as all activities of employees in the Virgin Islands, including the activities of those preschool employees who were brought under the Fair Labor Standards Act by section 906 of the Education Amendments of 1972, other than those activities included in the agriculture hotel, and motel, laundry and cleaning, and restaurant and food service classifications defined in subparagraphs (1), (2), (3), and (4) of this paragraph.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208; Sec. 906, 86 Stat. 235)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (8-15-72).

Signed at Washington, D.C., this 9th day of August 1972.

BEN P. ROBERTSON,
Acting Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.72-12847 Filed 8-14-72;8:49 am]

PART 697—INDUSTRIES IN AMERICAN SAMOA

Definition

On June 23, 1972, President Nixon signed into law the Education Amendments of 1972 (Public Law No. 92-318; 86 Stat. 235). The Education Amendments of 1972 amended the Fair Labor Standards Act in two respects. This document relates to the amendment which extended the general coverage of the Fair Labor Standards Act to employees of preschools. Congress amended both section 3(r)(1) and 3(s)(4) by deleting the words "an elementary or secondary school" and substituting the words "a preschool, elementary, or secondary school". These changes became effective on July 1, 1972.

By such action Congress has, in effect, amended the definition of the hospitals and educational industry in American Samoa by adding preschools. To accord with this congressional intent as reflected in the Education Amendments of 1972, § 697.1 of Part 697, Code of Federal Regulations is amended to read as follows:

§ 697.1 Wage rates.

* * * * *

(e) *Hospitals and educational institutions industry.* * * *

(2) This industry shall include all activities performed in connection with the operation of a hospital, defined as an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises of such institution, a school for the mentally or physically handicapped or the gifted children, a preschool, elementary, or secondary school, or an institution of higher education (regardless of whether or not such hospital, institution or school is public or private, or operated for profit or not for profit): *Provided, however,* That this industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208; Sec. 906, 86 Stat. 235)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (8-15-72).

Signed at Washington, D.C., this 9th day of August 1972.

BEN P. ROBERTSON,
Acting Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.72-12845 Filed 8-14-72;8:49 am]

PART 725—EDUCATION INDUSTRY IN PUERTO RICO

Definition

On June 23, 1972, President Nixon signed into law the Education Amendments of 1972 (Public Law No. 92-318; 86 Stat. 235). The Education Amendments

of 1972 amended the Fair Labor Standards Act in two respects. This document relates to the amendment which extended the general coverage of the Fair Labor Standards Act to employees of preschools. Congress amended both section 3(r)(1) and 3(s)(4) by deleting the words "an elementary or secondary school" and substituting the words "a preschool, elementary, or secondary school". These changes became effective on July 1, 1972.

By such action Congress has, in effect, amended the definition of the education industry in Puerto Rico by adding preschools. To accord with this congressional intent as reflected in the Education Amendmnts of 1972, §§ 725.1 and 725.2 of Part 725, Code of Federal Regulations are amended to read as follows:

§ 725.1 Definition.

The education industry in Puerto Rico, to which this part shall apply, is defined as follows: The operation of preschools, elementary, or secondary schools, or institutions of higher education, or schools for mentally or physically handicapped or gifted persons, regardless of whether public or private or operated for profit or not for profit: *Provided, however,* That the industry shall not include any activity to which the Fair Labor Standards Act of 1938 would have applied prior to the Fair Labor Standards Amendments of 1966.

§ 725.2 Wage rates.

Wages at the rate of not less than $1.54 an hour shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees who in any workweek is engaged in any activity in the education industry in Puerto Rico, which was brought within the purview of section 6 of the Act by the Fair Labor Standards Amendments of 1966, or by section 906 of the Education Amendments of 1972.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208; sec. 906, 86 Stat. 235)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (8–15–72).

Signed at Washington, D.C., this 9th day of August 1972.

BEN P. ROBERTSON,
Acting Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.72–12846 Filed 8–14–72;8:49 am]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

Common Carriers by Water

§ 1453.3 [Amended]

Section 1453.3 *Fiscal years ending on or after December 31, 1953,* is amended by deleting in paragraph (d)(2)(i) thereof, the words "January 1, 1971", and inserting in lieu thereof the words "January 1, 1972".

(Sec. 109, 65 Stat. 22; 50 U.S.C.A., App. sec. 1219)

Dated: August 10, 1972.

RICHARD T. BURRESS,
Chairman.

[FR Doc.72–12860 Filed 8–14–72;8:50 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Bureau of Domestic Commerce, Department of Commerce

[Formerly NPA Reg. 2, Dir. 4 as amended April 30, 1952—Revocation]

DPS REG. 1, DIR. 1—ELECTRONIC COMPONENTS; SEQUENCE OF DELIVERIES FOR SMALL ORDERS

Revocation

DPS Reg. 1, Dir. 1 (32A CFR 174 (1972)) is hereby revoked. This revocation does not relieve any person of any obligation or liability incurred under DPS Reg. 1, Dir. 1, nor deprive any person of any rights received or accrued under said regulation prior to the effective date of this revocation.

(Sec. 704, Defense Production Act of 1950, as amended, 50 U.S.C. App. 2154 (1970))

This revocation shall take effect August 15, 1972.

BUREAU OF DOMESTIC COMMERCE,
HUDSON B. DRAKE,
Director.

[FR Doc.72–12885 Filed 8–14–72;8:51 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Fluorodifen

A petition (PP 2F1178), was filed by Ciba-Geigy Corp., Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the herbicide fluorodifen (*p*-nitrophenyl-2-nitro - 4-(trifluoromethyl) phenylether) and its metabolites *p*-nitrophenyl-2-amino - 4 -(trifluoromethyl) phenylether and *p*-nitrophenol in or on the raw agricultural commodities peanut hulls, peanuts, and peanut vine hay at 0.2 part per million.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is being established.

2. The common name for the herbicide should be used.

3. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

4. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), §180.290 is revised in the heading and text to read as follows:

§ 180.290 Fluorodifen; tolerances for residues.

Tolerances are established for combined residues of the herbicide fluorodifen(*p* - nitrophenyl-2-nitro-4-(trifluoromethyl) phenylether) and its metabolites *p*-nitrophenyl - 2 - amino-4-(trifluoromethyl) phenylether and *p*-nitrophenol in or on raw agricultural commodities as follows:

0.2 part per million (negligible residue) in or on peanut hulls, peanuts, and peanut vine hay.

0.1 part per million (negligible residue) in or on soybean forage, soybeans, and seed and pod vegetables and their forages.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (8–15–72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: August 8, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72–12854 Filed 8–14–72;8:49 am]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Simazine

A petition (PP 0F0855) was filed by Geigy Chemical Corp. (now Ciba-Geigy Corp.), Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of tolerances for residues of the herbicide simazine (2-chloro-4,6-bis(ethylamino)-*s*-triazine) in or on the raw agricultural commodities pineapple fodder and forage at 10 parts per million; pineapples at 3 parts per million; and sugarcane and sugarcane fodder and forage at 1 part per million.

Subsequently, the petitioner amended the petition by reducing the requested tolerance on sugarcane from 1 part per million to 0.25 part per million and by withdrawing the requested tolerances on sugarcane fodder and forage, pineapple, and pineapple fodder and forage. (For a related document, see this issue of the FEDERAL REGISTER, page 16470).

Prior to December 2, 1970, the Secretary of Agriculture certified that this pesticide chemical is useful for the purpose for which a tolerance is being established, and the Fish and Wildlife Service, U.S. Department of the Interior, stated that it had no objections to the proposed tolerance.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 180.213 is amended by revising the paragraph "0.25 part per million * * *", as follows:

§ 180.213 Simazine; tolerances for residues.

* * * * *

0.25 part per million in or on almonds (hulls and nuts), apples, avocados, blackberries, blueberries, boysenberries, cherries, corn grain, corn fodder, and forage, fresh corn including sweet corn (kernels plus cob with husk removed), cranberries, currants, dewberries, filberts, grapefruit, grapes, lemons, loganberries, macadamia nuts, olives, oranges, peaches, pears, plums, raspberries, strawberries, sugarcane, and walnuts.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (8-15-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: August 3, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-12852 Filed 8-14-72;8:49 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER N—DANGEROUS CARGOES

[CGD 71-392a]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Boron Tribromide

On page 9601 of the FEDERAL REGISTER of May 26, 1971, there was published a notice of proposed rule making on boron tribromide. Interested persons were afforded 83 days to comment and a public hearing was held on August 10, 1971. No comments were received on this proposal.

By a separate document published at page 16496 of this issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board amends Parts 172 and 173 of Title 49 Code of Federal Regulations specifying the packaging for the transportation of boron tribromide.

The Board has added DOT-5C and 5M drums due to comments received. The Coast Guard will adopt this change.

In consideration of the foregoing, Part 146 is amended as follows:

1. By adding to § 146.04-5 "List of explosives and other dangerous articles and combustible liquids" in proper alphabetical sequence the following:

Article	Classed as—	Label required
* * *	* * *	
Boron tribromide	Cor. L	White.
* * *	* * *	

2. By adding to § 146.23-100 "Table F—Classification: Corrosive liquids" in proper alphabetical sequence the following:

Descriptive name of article	Characteristic properties cautions, markings required	Label required	Required conditions for Transportation
			Cargo vessels
* * *	* * *	* * *	
Boron tribromide	*Colorless, fuming liquid decomposes upon contact with water to evolve hydrobromic acid which is very corrosive to skin and eyes and in sufficient quantity is suffocating. Fumes are highly poisonous. Containers may rupture violently when heated. Boiling point—194° F.*	White	Stowage: "On deck protected." "On deck under cover." Outside containers: Wooden boxes: (DOT 15A, 15B or 15P) WIC. Metal barrels or drums: (DOT 5C, 5M) Not over 30 gal. cap. Spec. 5C must be constructed of at least 14 gauge stainless steel.
* * *	* * *	* * *	

Required Conditions for Transportation		
Passenger vessels	Ferry vessel, passenger or vehicle	RR car ferry, passenger or vehicle
* * *	* * *	
Not permitted	Ferry stowage (AA) Outside containers: Wooden boxes: (DOT-15A, 15B, 15P) WIC Metal barrels or drums: (DOT-5C, 5M) not over 30 gal. cap. Spec. 5C must be constructed of at least 14 gauge stainless steel.	Ferry stowage (BB) Outside containers: Wooden boxes: (DOT-15A, 15B, 15P) WIC Metal barrels or drums: (DOT-5C, 5M) not over 30 gal. cap. Spec. 5C must be constructed of at least 14 gauge stainless steel.
* * *	* * *	

(R.S. 4472, as amended; R.S. 4417a, as amended; sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Effective December 30, 1972.

Dated: August 7, 1972.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard,
Assistant Commandant.

[FR Doc.72-12703 Filed 8-14-72;8:54 am]

Title 49—TRANSPORTATION

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-22, Amdt. No. 171-15]

PART 171—GENERAL INFORMATION AND REGULATIONS

Matter Incorporated by Reference

The purpose of this amendment to the hazardous materials regulations of the Department of Transportation is to update the reference to the addenda to sections VII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

On June 10, 1972, the Board published a notice of proposed rule making, Docket No. HM-22; Notice No. 72-6 (37 F.R. 11685), proposing to make the above amendment. All comments received were in agreement with the proposal.

The Board is also amending § 171.8 of the Department's hazardous materials regulations to provide for the definition of "p.s.i.a.," "p.s.i.g.," "°C.," and "°F." Definitions for one or more of these abbreviations may be found in various sections of the regulations. As a matter of clarification, the Board is defining these abbreviations in the proper section by adding paragraphs (n), (o), (p), and (q) to § 171.8. The definitions of these abbreviations which appear in sections other than § 171.8 will be removed at later dates.

In consideration of the foregoing, 49 CFR Part 171 is amended as follows:

(A) In § 171.7, paragraph (d)(1) is amended to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(1) ASME Code means sections VIII (Division I) and IX of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through December 31, 1971.

* * * * *

(B) In § 171.8, paragraphs (n), (o), (p), and (q) are added to read as follows:

§ 171.8 Definitions.

* * * * *

(n) "P.s.i.a." means pounds per square inch absolute.

(o) "P.s.i.g." means pounds per square inch gage.

(p) "° C." means degree centigrade.

(q) "° F." means degree Fahrenheit.

This amendment is effective December 30, 1972. However, immediate compliance with the regulations, as amended herein, is authorized.

(Secs. 831-835, title 18, United States Code; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; title VI, sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1430 and 1472(h))

Issued in Washington, D.C., on August 9, 1972.

G. H. READ,
Captain, Alternate Board Member, for the U.S. Coast Guard.

MAC. E. ROGERS,
Board Member, for the Federal Railroad Administration.

ROBERT A. KAYE,
Board Member, for the Federal Highway Administration.

JAMES F. RUDOLPH,
Board Member, for the Federal Aviation Administration.

[FR Doc.72-12837 Filed 8-14-72;8:48 am]

[Docket No. HM-85; Amdts. 172-16, 173-65]

PART 172—COMMODITY LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 170-189 OF THIS CHAPTER

PART 173—SHIPPERS

Boron Tribromide

The purpose of this amendment to the hazardous materials regulations is to authorize the use of boron tribromide as a proper shipping name and to provide specific packagings for the shipment of boron tribromide.

On May 26, 1971, the Hazardous Materials Board published Docket No. HM-85, Notice No. 71-14 (36 F.R. 9602), which proposed this amendment. This amendment was identified in the miscellaneous notice of proposed rule making as Proposal E. Interested persons were invited to give their views and several comments were received by the Board.

All of the commenters approved of identifying boron tribromide in the regulations by name. However, some commenters objected to the proposed small quantity packagings for this material. The Board proposed the small quantity packagings on the basis of information received from the known suppliers of boron tribromide and because this material reacts explosively when in contact with water if contained or if in large volumes. The commenters stated that boron tribromide and other similar water reactive materials were presently permitted by the regulations to be shipped in larger capacity packagings. These commenters requested the Board to continue to permit boron tribromide to be packaged in certain larger capacity packagings.

The Board requested from the commenters shipping experience information on these larger capacity packagings and specific details regarding shipments. The inquiry was directed to the approximate length of time in which the chemicals had been shipped in these packagings and the experience recorded which involved the number of packagings shipped, the number reported leaking, and the modes of transportation utilized. The replies lacked the requested details and did not justify the authorization of all of the suggested larger capacity packagings. Two commenters did submit experience statements on materials which they considered similar to boron-tribromide and that had been shipped satisfactorily in large capacity packagings.

In the Board's opinion, these materials cannot be adequately compared with boron tribromide particularly with regard to its high density which limits significantly the methods of packaging appropriate to provide safe transportation.

In view of the submitted information and the past performance record of DOT-5C and DOT-5M drums the Board has authorized their use for the packaging of boron tribromide.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are amended as follows:

1. In § 172.5 paragraph (a), the list of hazardous materials is amended as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Add) Boron tribromide	Cor. L	No exemption, 173.251	White	1 quart.

2. In Part 173 Table of Contents, § 173.251 is amended to read as follows:

§ 173.251 Boron trichloride and boron tribromide.

3. In § 173.251, the heading is amended; paragraph (b) is added to read as follows:

§ 173.251 Boron trichloride and boron tribromide.

* * * * *

(b) Boron tribromide must be packed in specification packagings as follows:

(1) Specification 15A, 15B, or 15P (§§ 178.168, 178.169, 178.182 of this subchapter). Wooden or plywood boxes with inside glass receptacles not over 1 quart capacity each. Each glass receptacle must have a positive closure (not friction) and as prepared for shipment must be capable of withstanding an internal gage pressure of at least 15 p.s.i. The receptacle must be cushioned with sufficient absorbent incombustible material to completely absorb the contents in the event of leakage and must be packed within a securely closed metal can. Each can must then be cushioned with incombustible material within the prescribed outside packaging. Completed packaging for shipment must be capable of passing the tests prescribed in § 178.182-3(a)(1) of this subchapter.

(2) Specification 5C or 5M (§§ 178.83, 178.90 of this subchapter). Metal drums not exceeding 30 gallons capacity. Specification 5C drums must be constructed of at least 14-gage stainless steel.

This amendment is effective December 30, 1972. However, compliance with the regulations, as amended herein, is authorized immediately.

(Secs. 831-835 of title 18, United States Code, sec. 9, Department of Transportation Act (49 U.S.C. 1657); title VI, sec. 902(h), Federal Aviation Act of 1958, U.S.C. 1421-1430 and 1472(h))

Issued in Washington, D.C., on August 7, 1972.

G. H. READ,
Captain, Alternate Board Member, U.S. Coast Guard.

MACK ROGERS,
Board Member, Federal Railroad Administration.

ROBERT A. KAYE,
Board Member, Federal Highway Administration.

C. R. MELUGIN, Jr.,
Alternate Board Member, Federal Aviation Administration.

[FR Doc.72-12702 Filed 8-14-72;8:54 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Docket No. 71-7; Notice 2]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Truck-Camper Loading

This notice amends Part 571 of Title 49, Code of Federal Regulations, to add a new Motor Vehicle Safety Standard No. 126 (49 CFR 571.126) that requires manufacturers of slide-in campers and of trucks that would accommodate them to provide information concerning proper loading and load distribution. A notice of proposed rulemaking on this subject was published on April 9, 1971 (36 F.R. 6837).

The purpose of the new standard is to provide information that can be used to reduce overloading and improper load distribution in truck-camper combinations, and to prevent accidents resulting from the adverse effects of these conditions on vehicle handling and braking. Standard No. 126 requires manufacturers of slide-in campers to permanently affix a label to a rear surface of each camper that includes the weight of the camper when it contains standard equipment, and water, bottled gas, and icebox with ice, or refrigerator. The camper manufacturer is also required to provide, in an owner's manual or other document delivered with the camper, a picture showing the location of the longitudinal center of gravity of the camper when loaded and a picture showing a proper match of the slide-in camper on a typical truck. Standard No. 126 also requires manufacturers of trucks to which a camper could be attached to provide, in an operator's manual or other document delivered with the truck, a picture showing the manufacturer's recommended longitudinal center of gravity zone for the cargo weight rating, and one depicting the proper match of a truck and slide-in camper.

Standard No. 126 differs from the proposal in several aspects. The standard as proposed would have applied to incomplete vehicles intended for completion as trucks, and to multipurpose passenger vehicles with a GVWR of 10,000 pounds or less. These categories have been excluded from the final rule, which applies to trucks that would accommodate slide-in campers. These generally are pickup trucks. In excluding other proposed categories, the NHSTA considers that the information the manufacturer of an incomplete vehicle must furnish pursuant to 49 CFR Part 568 *Vehicles Manufactured in Two or More Stages*, should be sufficient to assist a final assembler in permanently installing a chassis-mount camper on a truck chassis, or in assembling a vehicle such as a motor home.

The proposal would also have required that a label be permanently affixed to each cargo compartment that would specify the maximum recommended weight for a load placed in the compartment. Commenters argued persuasively that camper owners would disregard a series of weight capacity labels on all storage compartments, and the proposal was not adopted. The final rule requires the certification label and the owner's manual to provide a figure denoting camper weight, which as noted previously includes the weight of standard equipment, a refrigerator, or icebox with ice, and maximum capacity of water and bottled gas. The cubic capacity of the refrigerator or weight of ice, the weight of bottled gas, and the gallons of water encompassed in the maximum weight figure will also be listed on the permanent label and in the owner's manual. The camper manufacturer may exclude any of these items from the label if the camper is not designed to accommodate them, provided that a notation to that effect appears in the owner's manual. The standard also requires a manufacturer to provide a listing of optional or additional equipment that the camper is designed to carry, and the respective weight of each if the unit weight exceeds 20 pounds.

The label will also state the month and year of manufacture, and a recommendation that the user consult the

owner's manual or data sheet for the weight of optional and additional equipment. The label is to be mounted in a plainly visible location on a surface at the rear of the camper other than the roof, steps, or bumper extension.

The proposed reference point, or the distances of the camper center of gravity from the reference point, have not been adopted for use on the exterior label. Manufacturers of campers generally have had no experience with the relatively complex vertical center of gravity measurement techniques. Truck manufacturers pointed out a number of variables that would have to be considered, and stated that the limiting envelope would not be rectangular as implied by the proposal. Other comments objected to the end of the truck's axle shaft as a reference point for specifying a recommended cargo center of gravity zone. Variations in the longitudinal center of gravity of the load are, however, known to have a direct relationship to a truck's gross axle loading, and can adversely affect the steering and stopping ability of the vehicle. The camper manufacturer will therefore be required to provide in the owner's manual a picture showing the location of the camper's longitudinal center of gravity within 2 inches, under specified load conditions. A manufacturer can easily measure the longitudinal center of gravity of a slide-in camper by balancing it on a transverse horizontal rod. The camper owner's manual must also contain specific advice on proper choice of truck to which a camper may be mounted, and proper loading of the camper once it is attached. Truck manufacturers in turn are required to include in the operator's manual a picture showing the recommended longitudinal center of gravity zone for the cargo weight rating and loading recommendations.

In order to allow the relatively small camper manufacturers time to consider the recommendations of truck manufacturers, and to modify camper designs if needed, a camper manufacturer need not provide center of gravity location information until July 1, 1973.

Effective date: January 1, 1973, with additional requirements effective July 1, 1973. Because compliance with the rule does not involve extensive leadtime, the Administrator finds for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

In consideration of the foregoing, 49 CFR Part 571 is amended by adding § 571.126 *Standard No. 126; Truck-camper loading* as set forth below.

This notice is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1401, 1403, and 1407) and the delegation of authority from the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51.

Issued on August 3, 1972.

DOUGLAS W. TOMS,
Administrator.

§ 571.126 Standard No. 126; Truck-camper loading.

S1. *Scope.* This standard requires manufacturers of slide-in campers to specify the weight and center of gravity of campers when loaded. This standard also requires manufacturers of trucks that would accommodate slide-in campers to specify the cargo weight rating and the longitudinal limits within which the center of gravity for the cargo weight rating should be located.

S2. *Purpose.* The purpose of this standard is to provide information that can be used to reduce overloading and improper load distribution in truck-camper combinations, in order to prevent accidents resulting from the adverse effects of these conditions on vehicle steering and braking.

S3. *Application.* This standard applies to slide-in campers, and to trucks that would accommodate slide-in campers.

S4. *Definitions.* "Campers" means a structure designed to be mounted in the cargo area of a truck, or attached to an incomplete vehicle with motive power, for the purpose of providing shelter for persons.

"Cargo weight rating" means the maximum weight of cargo, in pounds, exclusive of occupants in designated seating positions, that can safely be carried by a motor vehicle under normal operating conditions, as specified by the vehicle manufacturer.

"Slide-in camper" means a camper having a roof, floor, and sides, designed to be mounted on and removable from the cargo area of a truck by the user.

S5. *Requirements.*

S5.1 *Slide-in camper.*

S5.1.1 *Labels.* Each slide-in camper shall have permanently affixed to it, in a manner that it cannot be removed without defacing or destroying it, in a plainly visible location on an exterior rear surface other than the roof, steps, or bumper extension, a label containing the following information in the English language lettered in block capitals and numerals not less than 3/32-inch high, of a color contrasting with the background, in the order shown below and in the form illustrated in Figure 1.

(a) Name of camper manufacturer: The full corporate or individual name of the actual assembler of the camper shall be spelled out, except that such abbreviations as "Co," or "Inc," and their foreign equivalents, and the first and middle initials of individuals may be used. The name of the manufacturer shall be preceded by the word "Manufactured By" or "Mfg By".

(b) Month and year of manufacture: It may be spelled out (e.g. "June 1973") or expressed in numerals (e.g. "6/73").

(c) The statement: "This camper conforms to all applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal".

(d) The following statement completed as appropriate:

Camper weight is ------ Lbs. Maximum When It Contains Standard Equipment, ------ Gal. of Water, ------ Lbs. of Bottled Gas, and ------ Cubic Ft. Refrigerator (or Icebox with ------ Lbs. of Ice, as applicable). Consult Owner's Manual (or Data Sheet as applicable) for Weights of Additional or Optional Equipment.

S5.1.1.1 "Gal. of water" refers to the volume of water necessary to fill the camper's fresh water tanks to capacity. "Lbs. of bottled gas" refers to the weight of gas necessary to fill the camper's bottled gas tanks to capacity. The statement regarding a "refrigerator" or "icebox" refers to the capacity of the refrigerator with which the vehicle is equipped or the weight of the ice with which the icebox may be filled. Any of these items may be omitted from the statement, if the corresponding accessories are not included with the camper, provided that the omission is noted in the camper owner's manual as required in paragraph S5.1.2(a).

S5.1.2 *Owner's manual.* Each slide-in camper manufacturer shall provide with each camper a manual or other document containing the information specified in S5.1.2(a) through S5.1.2(d). The information specified in S5.1.2(e) and S5.1.2(f) shall also be provided with each camper manufactured on or after July 1, 1973.

(a) The statement and information provided on the certification label as specified in paragraph S5.1.1. If water, bottled gas, or refrigerator (icebox) has been omitted from this statement, the manufacturer's information shall note such omission and advise that the weight of any such item when added to the camper, should be added to the maximum camper weight figure used in selecting an appropriate truck.

(b) A list of other additional or optional equipment that the camper is designed to carry, and the maximum weight of each if its weight is more than 20 lbs. when installed.

(c) The statement: "To estimate the total load which will be placed on a truck, add the weight of all passengers in the camper, the weight of supplies, tools, and all other cargo, the weight of installed additional or optional camper equipment, and the manufacturer's camper weight figure. Select a truck that has a cargo weight rating that is equal to or greater than the total load of the camper, and whose manufacturer recommends a cargo center of gravity zone that will contain the camper's center of gravity when it is installed."

(d) The statements: "When loading this camper store heavy gear first, keeping it on or close to the camper floor. Place heavy things far enough forward to keep the loaded camper's center of gravity within the zone recommended by the truck manufacturer. Store only light objects on high shelves. Distribute weight to obtain even side-to-side balance of the loaded vehicle. Secure loose items to prevent weight shifts that could affect the balance of your vehicle. When the truck-camper is loaded, drive to a scale and

weigh on the front and on the rear wheels separately to determine axle loads. The load on an axle should not exceed its gross axle weight rating (GAWR). The total of the axle loads should not exceed the gross vehicle weight rating (GVWR). These weight ratings are given on the vehicle certification label that is located on the left side of the vehicle, normally the dash panel, hinge pillar, door latch post, or door edge next to the driver on trucks manufactured on or after January 1, 1972. If weight ratings are exceeded, move or remove items to bring all weights below the ratings.

(e) A picture showing the location of the longitudinal center of gravity of the camper within an accuracy of 2 inches under the loaded condition specified in paragraph S5.1.1(d), in the manner illustrated in Figure 2.

(f) A picture showing the proper match of a truck and slide-in camper in the form illustrated in Figure 3.

S5.2 *Trucks.*

S5.2.1 Except as provided in S5.2.2 each manufacturer of a truck that would accommodate a slide-in camper shall provide, in the truck operator's manual or other document delivered with the truck, the following information:

(a) A picture showing the manufacturer's recommended longitudinal center of gravity zone for the cargo weight rating in the form illustrated in Figure 4. The boundaries of the zone shall be such that when a slide-in camper of the cargo weight rating is installed, no gross axle weight rating is exceeded.

(b) The cargo weight rating.

(c) The manufacturer's recommendations when the truck is used for towing a trailer.

(d) The statements: "When the truck is used to carry a slide-in camper, the total load on the truck consists of the manufacturer's camper weight figure, the weight of installed additional camper equipment not included in the manufacturer's camper weight figure, the weight of camper cargo, and the weight of passengers in the camper. The total load should not exceed the truck's cargo weight rating and the camper's center of gravity should fall within the truck's recommended center of gravity zone when installed."

(e) A picture showing the proper match of a truck and slide-in camper in the form illustrated in Figure 3.

(f) The statements: "Secure loose items to prevent weight shifts that could affect the balance of your vehicle. When the truck camper is loaded, drive to a scale and weigh on the front and on the rear wheels separately to determine axle loads. Individual axle loads should not exceed either of the gross axle weight ratings (GAWR). The total of the axle loads should not exceed the gross vehicle weight rating (GVWR). These ratings are given on the vehicle certification label that is located on the left side of the vehicle, normally the dash, hinge pillar, door latch post, or door edge next to the driver. If weight ratings are exceeded, move or remove items to bring all weights below the ratings."

S5.2.2 If a truck would accommodate a slide-in camper but the manufacturer of the truck recommends that the truck not be used for that purpose, in lieu of providing the information required by S5.2.1 the manufacturer shall state in the truck operator's manual or other document delivered with the truck, that the truck should not be used to carry a slide-in camper.

MFG. BY: (CAMPER MANUFACTURER'S NAME)

(MONTH AND YEAR OF MANUFACTURE)

THIS CAMPER CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY STANDARD IN EFFECT ON THE DATE OF MANUFACTURE SHOWN ABOVE.

CAMPER WEIGHT IS _____ LBS. MAXIMUM WHEN IT CONTAINS STANDARD EQUIPMENT, _____ GAL. OF WATER _____ LBS. OF BOTTLED GAS, AND _____ CUBIC FT. REFRIGERATOR (or ICE BOX WITH _____ LBS. OF ICE, as applicable). CONSULT OWNER'S MANUAL (or DATA SHEET as applicable) FOR WEIGHTS OF ADDITIONAL OR OPTIONAL EQUIPMENT.

FIGURE 1. PLACARD FOR CAMPERS

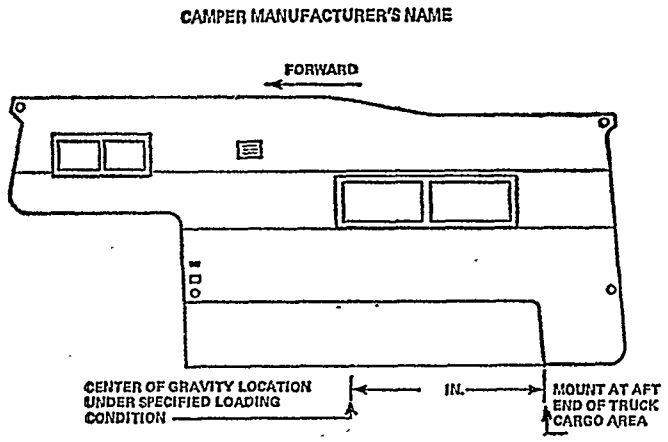

FIGURE 2 - CAMPER CENTER OF GRAVITY INFORMATION

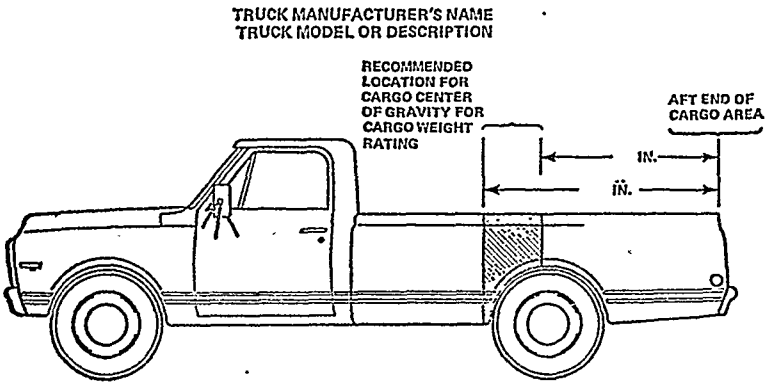

FIGURE 4 - TRUCK LOADING INFORMATION

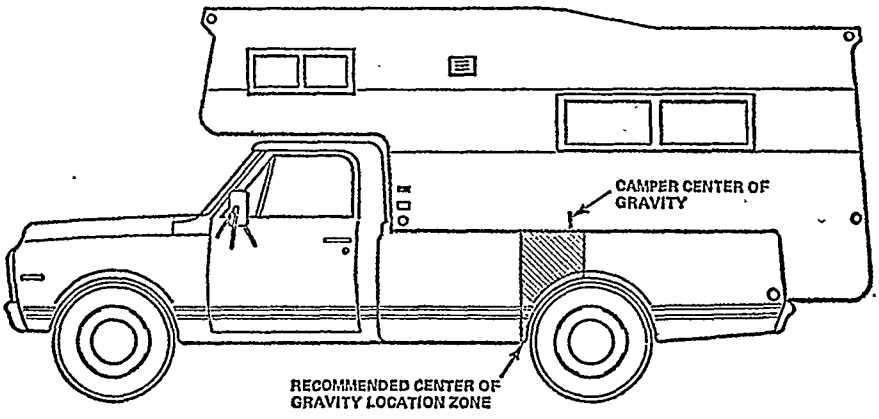

FIGURE 3 - EXAMPLE OF PROPER TRUCK AND CAMPER MATCH

[FR Doc.72-12810 Filed 8-14-72;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTIONS, AND CLASSIFICATION OF ECONOMIC UNITS

PART 102—PUBLIC ACCESS TO RECORDS

Miscellaneous Amendments

Subpart B of Part 101 of Title 6 of the Code of Federal Regulations is amended to clarify which institutional and noninstitutional providers of health services are in Tier III. Subpart D is amended to exempt prices for garden plants, the health fees levied on students as a condition of enrollment in a State or local government school, silver, and the production and distribution of movies and television productions. Subpart E is amended to clarify the definition of employee used in the small business exemption.

Section 101.15(a)(2) of Subpart B is amended to clarify that all institutional or noninstitutional providers of health services (as defined in §§ 300.18 and 300.19 of this title) with annual sales or revenues less than $50 million, which are not Price Category II firms, as defined in 6 CFR 101.13, as amended (37 F.R. 13476, July 7, 1972), are Price Category III firms.

Subpart D is revised and amended in § 101.32(a) to exempt the sale of garden plants. The effect of the change will be to exempt sales of these products from economic stabilization regulations. Garden plants were originally exempt from controls, but because they are products which are of a type sold for ultimate consumption in their original physical form, the Council included them in the group of raw agricultural products subject to controls after the first sale in an amendment published on June 30, 1972 (37 F.R. 12961).

In returning the exemption to these products the Council took note of the number of sales of these products prior to consumption. Many sales are between producers for the purpose of further growth of the plants. Continuation of controls would require separation of stock raised by one producer or seller from identical stock that firm may have purchased from another producer or seller. The controls produced serious inequities in requiring producers and sellers to determine when the first sale of each plant occurred.

The Council determined that exemption of garden plants will have no significant adverse impact on the controls

program. The intent of the amendment controlling certain sales of unprocessed agricultural products was to reduce the inflationary pressure on food prices. Garden plants are not products which are generally consumed as food at the time of sale to the consumer and to the extent this exemption permits larger sales of food producing plants the amendment will aid in reducing inflationary pressure on certain food prices.

Subpart D is also amended in § 101.34 (a) (2). This amendment exempts health service fees levied on students as a condition of enrollment by schools, colleges, and universities owned and operated by State and local governments. Health service fees levied on students as a condition of enrollment in private nonprofit educational organizations are presently exempt and most fees and charges of State and local governments are also exempt. The purpose of this amendment is to place schools, colleges, and universities owned and operated by State and local governments on an equal footing with private nonprofit educational organizations with respect to health service fees levied on students as a condition of enrollment.

Subpart D is further amended by adding a new paragraph (m) to § 101.34 to reflect a Council decision to exempt price adjustments for commercial grade silver in refining shapes, the silver content in ores and dore, silver coins, and other forms of silver sold for manufacturing or professional uses. The Council action was based upon the recent development of a multitier price system for silver which has led to conditions which encourage exporting and hoarding of domestic silver. As domestic production is not sufficient to meet domestic demand, domestic users will be forced to rely increasingly upon international sources so that they may be forced to pay prices higher than would exist if silver were exempt from controls.

Moreover, it is anticipated that the increase in price of domestic silver resulting from exemption will have a minimum impact on inflation because a significant amount of silver consumed domestically is imported.

The Council also considered the fact that the base price for silver reflects the depressed market that existed in the base period, and was concerned that these low prices would discourage domestic production and jeopardize the health of the U.S. silver industry.

The Council also considered the fact that holdings of silver in the hands of investors and speculators are an important market force and that trading by these individuals at uncontrolled prices is causing market distortions. It pointed out that while producers are restricted to delivery at cost-justified prices, third party traders are permitted to deliver on futures contracts on the commodity exchange at whatever price is specified in the futures contracts. It is the belief of the Council that the exemption will lead to more stabilized silver prices and a normal growth in the industry.

A new paragraph (i) is added to § 101.36 of Subpart D to reflect a Council decision to exempt price adjustments for motion pictures and television productions by producers and distributors. The Council noted that because of the unique artistic and entertainment nature of each production, the films are similar to art objects which are exempt. Also, it considered that, historically, pricing in the industry is based upon anticipated and actual public response to each film rather than costs. These unique characteristics make controls inequitable under the Price Commission cost-based regulatory scheme. Moreover, the industry is characterized by a large number of suppliers and highly competitive price bidding, so that it is not anticipated that exemption of the industry will lead to highly inflationary price increases. Exhibitors not exempt under the small business exemption remain subject to economic stabilization controls.

Section 101.51(d) (1) of Subpart E is amended to clarify the definition of "employee." For purposes of determining qualification for the small business exemption, an employer must count all employees defined as "employee" in the Federal Insurance Contribution Act, 1939, as amended 26 U.S.C. sec. 3121(d). An "employee" must be counted even if by operation of some other provision in the Federal Insurance Contributions Act, FICA taxes are not paid for the individual who is defined as an "employee" in the Act.

Subpart A of Part 102 of Title 6 of the Code of Federal Regulations is amended to add a new subsection giving discretionary authority to the Chairman of the Council to disclose records when disclosure is in the public interest and not prohibited by law.

This amendment clarifies Cost of Living Council policy and regulations regarding disclosure of information adopted pursuant to the Freedom of Information Act (5 U.S.C. 552). Implicit in the Act and in Council regulations is the requirement that the agency adopt a policy conducive to maximum disclosure of public records. The Freedom of Information Act permits an agency to protect from disclosure certain types of records in its possession. This protection is not required, however, and the Council has inherent authority to release information which may be protected if release is not prohibited by law and is deemed to be in the public interest.

By adding this new language to its regulations, the Council makes explicit the policy of full disclosure which it has followed.

Because the purpose of this amendment is to amend and modify Parts 101 and 102 to provide immediate guidance and information as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rule-making procedure is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit written comments regarding the above amendment. Communications should be addressed to the Office of General Counsel, Cost of Living Council, New Executive Office Building, Washington, D.C. 20507.

This amendment will become effective when filed with the Office of the Federal Register.

DONALD RUMSFELD,
Director, Cost of Living Council.

Part 101 of Chapter 1 of Title 6 of the Code of Federal Regulations is amended as follows:

1. Subpart B is amended in § 101.51 (a) (2) to read as follows:

§ 101.15 Price Category III firms; monitoring and spot checks.

(a) * * *

(2) An institutional or noninstitutional provider of health services (as defined in §§ 300.18 and 300.19 of this title) (i) with annual sales or revenues between $1 million and $50 million which has not received an exception from the Price Commission from the price adjustment limitations imposed in §§ 300.18 and 300.19 of this title, or (ii) with annual sales or revenues of $1 million or less.

* * * * *

2. Subpart D is amended in § 101.32(a) by deleting the phrase "garden plants and" from the list of examples following the special rule.

Subpart D is further amended in § 101.32(a) by adding "garden plants" to the list of examples of exempt agricultural products.

Subpart D is further amended in § 101.34 to modify paragraph (a) (2) and to add a new paragraph (m) to read as follows:

§ 101.34 Certain price adjustments.

(a) * * *

(2) Price adjustments including rent adjustments by State and local governments for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, facilities, materials, or similar thing of value or utility, performed, furnished, provided, granted, prepared, issued, or transferred including tuition and other charges for schools, colleges, and universities owned or operated by a State and local government; except, however, that fees or charges for health services (but not health service fees levied on all students as a condition of enrollment) and for utility services (including, gas electricity, telephone, telegraph, public transportation by vehicle or pipeline, but not including water or sewage disposal services) provided directly or indirectly by a State and local government are not exempt under the provisions of this section.

* * * * *

(m) *Silver.* Price adjustments for (i) commercial grade silver in refining shapes, (ii) silver content in ores and done, (iii) silver coins, and (iv) other

forms of silver sold for manufacturing or professional uses.

Subpart D is further amended in § 101.36 to add a new paragraph (i) to read as follows:

§ 101.36 Miscellaneous.

* * * * *

(i) *Films.* Price adjustments for motion pictures and television productions when such price adjustments are made by producers or distributors of motion pictures and television productions.

3. Subpart E is amended in § 101.51 (d)(1) to read as follows:

§ 101.51 Exemption of firms with 60 or fewer employees.

* * * * *

(d) Definitions—

(1) "Employee" means any person residing in and employed in the several States or the District of Columbia for whom an employer is required to pay taxes imposed pursuant to the Federal Insurance Contributions Act, 1939, as amended, 26 U.S.C. sec. 3101, et seq. (FICA), and any person otherwise excluded from FICA coverage, who (i) performs services for any firm as an agent-driver, or commission-driver engaged in the distribution of milk for his principals; or (ii) is defined as an "employee" in 26 U.S.C. sec. 3121(d).

* * * * *

Part 102 of Chapter 1 of Title 6 of the Code of Federal Regulations is amended as follows:

1. Subpart A is amended in § 102.3 to add a new paragraph (c) as follows:

§ 102.3 Authority.

* * * * *

(c) The Chairman of the Council, or his delegate, is authorized at his discretion to make any record enumerated in § 102.4 available for inspection when he deems disclosure to be in the public interest and disclosure is not otherwise prohibited by law.

[FR Doc.72-12979 Filed 8-14-72;8:53 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1050]

MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the central Illinois marketing area is being considered for the month of August 1972.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business horus (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

1. In § 1050.14, paragraphs (c) (2) and (3).

Statement of consideration. The proposed suspension action would permit unlimited diversion of producer milk under the central Illinois order for the month of August 1972 under the same rule of unlimited diversions as applied in May, June, and July 1972.

The suspension action was requested by Associated Milk Producers, Inc. The producer association claims that such action is necessary in order to enable its member producers to maintain producer status under the order for the month of August. A distributing plant to which a number of the association's member producers ship has been experiencing a decline in Class I sales along with an increase in Class II sales. Specialization in Class II products at this particular plant, lack of Class I sales to schools during August, and increasing competition from other handlers were cited as reasons for the current situation. Suspension of the diversion limitations was requested to facilitate the orderly disposition of reserve milk and to provide continued producer status for the aforementioned producers under the order.

Signed at Washington, D.C., on August 9, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-12843 Filed 8-14-72;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

LEGAL STATUS OF APPROVED LABELING FOR PRESCRIPTION DRUGS; PRESCRIBING FOR USES UNAPPROVED BY THE FOOD AND DRUG ADMINISTRATION

Notice of Proposed Rule Making

The widespread use of certain prescription drugs for conditions not named in the official labeling has led to questions concerning the legal responsibilities of the prescribing physicians, and the position of the Food and Drug Administration with respect to such use. Accordingly, the Commissioner proposes to add a new regulation clarifying the applicable legal requirements and specifying actions that may be taken by the Food and Drug Administration with respect to unapproved uses of approved prescription drugs.

Section 505 of the Federal Foqd, Drug, and Cosmetic Act prohibits the introduction or delivery for introduction into interstate commerce of any new drug without the filing of an investigational new drug plan or approval of a new drug application. Unlike the adulteration and misbranding provisions of the Act, the new drug provisions apply only at the moment of shipment in interstate commerce and not to action taken subsequent to shipment in interstate commerce. In United States v. Phelps Dodge Mercantile Co., 157 F. 2d 453 (9th Cir. 1946), cert. denied, 330 U.S. 818 (1947), the court held that violations while products are held for sale after interstate shipment did not come within the jurisdiction of the Act. As a result of that decision, Congress enacted the Miller amendment of 1948, 62 Stat. 582, amending section 301(k) of the Act to extend the reach of the adulteration and misbranding provisions of the Act to violations after interstate shipment. The 1948 amendment did not, however, also extend the reach of the new drug provisions of the Act, which are separate from the adulteration and misbranding provisions, to action taken after interstate shipment.

The major objective of the drug provisions of the Federal Food, Drug, and Cosmetic Act is to assure that drugs will be safe and effective for use under the conditions of use prescribed, recommended, or suggested in the labeling thereof. Thus, new drug approval and antibiotic drug certification are regulated by law, both in the prescriber's and the patient's interest. When a new drug is approved for marketing, the conditions of use that have been approved are required to be set forth in detail in the official labeling. This labeling must accompany the drug in interstate shipment and must contain adequate information for safe and effective use of the drug, including: Indications, effects, dosages, routes, methods, and frequency and duration of administration, contraindications, side effects, and precautions. The labeling is derived from the data submitted with the new drug application. It presents a full disclosure summarization of drug use information, which the supplier of the drug is required to develop from accumulated clinical experience, and systematic drug trials consisting of preclinical investigations and adequate well-controlled clinical investigations that demonstrate the drug's safety and the effectiveness it purports or is represented to possess.

If an approved new drug is shipped in interstate commerce with the approved package insert, and neither the shipper nor the recipient intends that it be used for an unapproved purpose, the requirements of section 505 of the Act are satisfied. Once the new drug is in a local pharmacy after interstate shipment, the physician may, as part of the practice of medicine, lawfully prescribe a different dosage for his patient, or may otherwise vary the conditions of use from those approved in the package insert, without informing or obtaining the approval of the Food and Drug Administration.

This interpretation of the Act is consistent with congressional intent as indicated in the legislative history of the 1938 Act and the drug amendments of 1962. Throughout the debate leading to enactment, there were repeated statements that Congress did not intend the Food and Drug Administration to interfere with medical practice and references to the understanding that the bill did not purport to regulate the practice of medicine as between the physician and the patient. Congress recognized a patient's right to seek civil damages in the courts if there should be evidence of malpractice, and declined to provide any legislative restrictions upon the medical profession.

In the 1938 Act and the 1962 amendments, however, Congress clearly required the Food and Drug Administration to control the availability of drugs for prescribing by physicians. Under the 1938 Act, a new drug could not be marketed unless a new drug application establishing the drug's safety had been allowed to become effective by the Food and Drug Administration. Under the 1962 amendments, no new drug is permitted on the market until the Food and Drug Administration approves a new drug application demonstrating both its safety and effectiveness.

Under the 1962 amendments, moreover, the Food and Drug Administration is required to review the labeling for every new drug, including the package insert for prescription new drugs, and to approve it as not false or misleading in any particular. In approving the labeling the Food and Drug Administration must determine both that the content is entirely truthful, and that it omits no information pertinent to the safe and effective prescribing of the drug by the physician. Congress intended the labeling to be a full, complete, honest, and accurate appraisal of the important facts that have reliably been proved about the drug.

Thus, although it is clear that Congress did not intend the Food and Drug Administration to regulate or interfere with the practice of medicine, it is equally clear that it did intend that the Food and Drug Administration determine those drugs for which there exists substantial evidence of safety and effectiveness and thus will be available for prescribing by the medical profession, and additionally, what information about the drugs constitutes truthful, accurate, and full disclosure to permit safe and effective prescription by the physician. As the law now stands, therefore, the Food and Drug Administration is charged with the responsibility for judging the safety and effectiveness of drugs and the truthfulness of their labeling. The physician is then responsible for making the final judgment as to which, if any, of the available drugs his patient will receive in the light of the information contained in their labeling and other adequate scientific data available to him.

Although the Act does not require a physician to file an investigational new drug plan before prescribing an approved drug for unapproved uses, or to submit to the Food and Drug Administration data concerning the therapeutic results and the adverse reactions obtained, it is sometimes in the best interests of the physician and the public that this be done. The physician should recognize that such use is investigational, and he should take account of the scientific principles, including the moral and ethical considerations, applicable to the safe use of investigational drugs in human patients. When the results of treatment are reported completely and accurately the data may be helpful to patients and physicians as well as to the Food and Drug Administration. Such information can lead to warnings against dangerous unapproved uses, or, on the other hand, to acceptance of previously unknown uses.

Physicians have been concerned that the failure to follow the labeling of a drug may render them unduly liable for malpractice.

Although labeling, along with medical articles, tests, and expert opinion, may constitute evidence of the proper practice of medicine, it is not controlling on this issue. The labeling is not intended either to preclude the physician from using his best judgment in the interest of the patient, or to impose liability if he does not follow the package insert. A physician should recognize, however, that the package insert represents a summary of the important information on the conditions under which the drug has been shown to be safe and effective by adequate scientific data submitted to the Food and Drug Administration.

Where the unapproved use of an approved new drug becomes widespread or endangers the public health, the Food and Drug Administration is obligated to investigate it thoroughly and to take whatever action is warranted to protect the public. Several alternative courses of action are available to the Food and Drug Administration under these circumstances, depending upon the specific facts of each case. These actions include: Requiring a change in the labeling to warn against or to approve the unapproved use, seeking substantial evidence to substantiate the use, restricting the channel of distribution, and even withdrawing approval of the drug and removing it from the market in extreme cases. When necessary, the Food and Drug Administration will not hesitate to take whatever action of this nature may be required to bring possible harmful use of an approved drug under control.

Section 1.106 of the regulations (21 CFR 1.106) requires the labeling to contain appropriate information with respect to all intended uses of the drugs. Thus, where a manufacturer or his representative, or any person in the chain of distribution, does anything that directly or indirectly suggests to the physician or to the patient that an approved drug may properly be used for unapproved uses for which it is neither labeled nor advertised, that action constitutes a direct violation of the Act and is punishable accordingly.

The Commissioner believes it important that the public, the medical profession, and the pharmaceutical industry fully appreciate the statutory provisions enacted by Congress that are controlling under these circumstances.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 701, 76 Stat. 781–785, as amended, 52 Stat. 1055–1056; 21 U.S.C. 355, 371) and under authority delegated to the Commisioner (21 CFR 2.120), it is proposed that the following new section be added to Part 130:

§ 130.____ Legal status of labeling, including package inserts and product brochures, for prescription drugs; prescribing for uses unapproved by the Food and Drug Administration.

(a) The Food and Drug Administration approves labeling for a prescription new drug as part of the new drug approval process. Supplemental new drug applications may periodically result in revision of the labeling.

(1) The labeling approved by the Food and Drug Administration in a prescription new drug application summarizes all information with respect to the conditions of use for which substantial evidence is available to the Food and Drug Administration that the drug is safe and effective.

(2) A prescription new drug may not be shipped in interstate commerce when intended for uses not contained in the currently approved labeling. Such unapproved uses may include, inter alia, a different dosage, or a different patient population, or a different regimen, than that approved. Section 505 of the Federal Food, Drug, and Cosmetic Act requires that a manufacturer, physician, or other person who ships or requests shipment of a prescription new drug in interstate commerce with the intent, or for the purpose, of an unapproved use must first file with the Food and Drug Administration an investigational new drug plan as set out in § 130.3.

(3) Once a prescription new drug has been shipped in interstate commerce intended for its approved use(s) under approved labeling, the Federal Food, Drug, and Cosmetic Act does not require a physician to file with the Food and Drug Administration an investigational new drug plan in order to lawfully prescribe the drug for an unapproved use, when such prescribing is done as part of the practice of medicine.

(b) When an unapproved use of a new drug may endanger patients or create a public health hazard, or provide a benefit to patients or to the public health, the Food and Drug Administration is obligated to take one or more of the following courses of action:

(1) Revision of the package insert may be required to add a specific contraindication or warning against the unapproved use.

(2) The manufacturer may be required to obtain and submit the available data with respect to the unapproved use, or to sponsor clinical trials to determine the safety and effectiveness of the drug for the unapproved use.

(3) If substantial evidence of safety and effectiveness is available, revision of the package insert may be permitted or required to add the unapproved use as an approved use and to state the conditions under which the drug is safe and effective for that use.

(4) Revision of the package insert may be required to state that a prescription for the drug should not be refilled.

(5) Revision of the package insert may be required to state that the drug should be distributed only through specified channels (e.g., hospital pharmacies) and/or should be prescribed dispensed, or administered only by physicians with specified qualifications.

(6) The investigational new drug authority, as well as the new drug approval authority, may be invoked to impose a

requirement that the drug may be distributed only through specified channels and/or may be prescribed, dispensed, or administered only by physicians with specified qualifications.

(7) The package of the drug dispensed to the patient may be required to contain a package insert containing appropriate information for the safe and effective use of the drug by the layman.

(8) The approval of the new drug application may be revoked.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: July 30, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-12812 Filed 8-14-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 47]

[Docket No. 11271: Reference Notice 71-21]

NOTICE OF OWNERSHIP BY TRANSFEREE OF U.S. REGISTERED AIRCRAFT

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 71-21 (36 F.R. 14271) in which the Federal Aviation Administration solicited comments on a proposed amendment to Part 47 of the Federal Aviation Regulations that would have required the buyer or other transferee of an aircraft last registered in the United States to notify the FAA of his ownership within 10 days after he becomes the owner, unless within that period he submitted an application for aircraft registration under that part.

Since the issuance of Notice 71-21, further study has revealed that the annual registration eligibility reporting under § 47.44 has resulted in aircraft records being more current and accurate than previously. Consequently, it appears that rule making action on the proposed amendment is no longer appropriate, and that Notice 71-21 should be withdrawn.

The withdrawal of this notice, however, does not preclude the FAA from issuing similar notices in the future nor does it commit the FAA to any course of action.

In consideration of the foregoing, the notice of proposed rule making published in the FEDERAL REGISTER (36 F.R. 14271) on August 3, 1971, and circulated as Notice 71-21, entitled "Notice of Ownership by Transferee of U.S. Registered Aircraft" is hereby withdrawn.

This withdrawal is issued under the authority of section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354 (a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Oklahoma City, Okla., on August 3, 1972.

A. L. COULTER,
Director,
Aeronautical Center.

[FR Doc.72-12841 Filed 8-14-72;8:48 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-7; Notice 3]

TRUCK-CAMPER LOADING

Notice of Proposed Rulemaking

The purpose of this notice is to propose an amendment to 49 CFR 571.126, Motor Vehicle Safety Standard No. 126, Truck-Camper Loading, that would require slide-in campers to be identified by a camper identification number.

Standard No. 126 (37 F.R. 16496) requires each slide-in camper manufactured on or after January 1, 1973, to have a label permanently affixed to it, stating the manufacturer's name, certification of compliance, month and year of manufacture, and certain other information. The NHTSA believes that a camper identification number should be added to the label to facilitate any future defect notification and recall campaigns that might occur, and herewith proposes that campers be identified with a number which, like the vehicle identification number required by Standard No. 115, would not be identical within a 10-year period.

In consideration of the foregoing, it is proposed that 49 CFR 571.126, Motor Vehicle Safety Standard No. 126, be revised by adding paragraph (e) to paragraph S5.1.1 to read as follows:

(e) Slide-in camper identification number: Each manufacturer shall assign a number for identification purposes to each slide-in camper, which shall consist of arabic numerals, roman letters, or both. The slide-in camper identification number of two campers manufactured by a manufacturer within a 10-year period shall not be identical.

Interested persons are invited to submit written data, views or arguments on this proposal. Comments should refer to the docket number and notice number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, DC 20590. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on September 15, 1972, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available in the docket after the closing date and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: January 1, 1973.

This notice is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1401, 1403, 1407) and the delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on August 3, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Program.

[FR Doc.72-12811 Filed 8-14-72;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[24 CFR Parts 203, 213, 222]

[Docket No. R-72-208]

FHA REQUIREMENT OF FLOOD INSURANCE IN SPECIAL FLOOD HAZARD AREAS

Notice of Proposed Rule Making

The Department of Housing and Urban Development proposes to require flood insurance coverage if property securing a mortgage insured by that Department is located in a special flood hazard area, as designated by the Secretary of HUD, and if the first-floor elevation of the property is less than 1 foot above the specified maximum elevation of such area. To carry out this policy the Department proposes to amend Chapter II of its regulations to require the collection by the mortgagee and the payment by the mortgagor, when the property is located in such areas, of flood insurance premiums.

The proposed amendments would require the inclusion in the mortgage of a

provision for the collection of flood insurance premiums by the mortgagee for the term of the mortgage. The flood insurance premiums collected would be held in escrow by the mortgagee in the same manner as the taxes, ground rents, and hazard insurance premiums collected are now held, and would be used by the mortgagee to pay for the flood insurance policy.

Interested persons are invited to submit written comments with respect to this proposal. Communications should be identified by the above docket number and title, and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material received on or before September 17, 1972, will be considered before adoption of the final rule. Copies of comments submitted will be available for examination during business hours at the above address.

Accordingly, Chapter II, Subchapter B—Mortgage and Loan Insurance Programs under National Housing Act, would be amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. Section 203.23(a) would be revised. As amended, § 203.23 would read as follows:

§ 203.23 Mortgagor's payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize: (1) The ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums for flood insurance required by the Commissioner when the property is located in a special flood hazard area, as designated by the Secretary, and the first-floor elevation of the property is less than 1 foot above the specified maximum elevation of the special flood hazard area; and (5) fire and other hazard insurance premiums, if any, within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustements in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

* * * * *

2. Section 203.24(a)(2) would be revised. As amended, § 203.24 would read as follows:

§ 203.24 Application of payments.

* * * * *

(2) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums.

* * * * *

3. Section 203.26 would be amended to read as follows:

§ 203.26 Mortgagor's payments when mortgage is executed.

The mortgagor must pay to the mortgagee, upon the execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment.

(Section 203, National Housing Act; 12 U.S.C. 1709.)

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

1. Section 213.514(a) would be revised. As amended, § 213.514 would read as follows:

§ 213.514 Payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize: (1) the ground rents, if any; (2) the estimated amount of all taxes; (3) special assessments, if any; (4) flood insurance premiums for flood insurance required by the Commissioner when the property is located in a special flood hazard area, as designated by the Secretary, and the first floor elevation of the property is less than 1 foot above the specified maximum elevation of the special flood hazard area; and (5) fire and other hazard insurance premiums, within a period ending 1 month prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee in a manner satisfactory to the Commissioner, for the purpose of paying such ground rents, taxes, assessments, and insurance premiums, before the same became delinquent, for the benefit and account of the mortgagor. The mortgage must also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor.

* * * * *

2. Section 213.515(b) would be revised. As amended, § 213.515 would read as follows:

§ 213.515 Payments, how applied.

* * * * *

(b) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums;

* * * * *

3. Section 213.517 would be amended to read as follows:

§ 213.517 Payments upon execution of mortgage.

The mortgagor must pay to the mortgagee upon the execution of the mortgage a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments, and insurance premiums were last paid and ending on the date of the first monthly payment under the mortgage, and may be required to pay a further sum equal to the first annual mortgage insurance premium, plus an amount sufficient to pay the mortgage insurance premium from the date of closing the loan to the date of the first monthly payment. (Section 213, National Housing Act; 12 U.S.C. 1715e.)

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

Section 222.6(a)(1) would be revised. As amended, § 222.6 would read as follows:

§ 222.6 Application of payments.

(a) * * *

(1) Ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums:

* * * * *

(Section 222, National Housing Act; 12 U.S.C. 1715m.)

Issued at Washington, D.C., August 11, 1972.

JOHN L. GANLEY,
Deputy Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.72-12930 Filed 8-14-72;8:53 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[S-72-2]

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Definitions of "Flammable Liquid" and "Combustible Liquid"; Determination of Flashpoints; Notice of Public Hearing

On June 15, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 11901) of a proposal to make certain changes in the definitions of "flammable liquid," "combustible liquid," and of "flashpoint," in 29 CFR 1910.106, and to make conforming terminological changes in appropriate provisions of 29 CFR 1910.106 and 1910.108. Interested persons were given a period of 30 days to submit written comments and objections, and to request a hearing on the objections. More than 20 written submissions have been received, most of which support the proposal generally. Only one request for a hearing has been received, from the Chemical Specialties Manufacturers Association, Inc. The association objects to:

(1) Proposed § 1910.106(a)(14)(i), which would require the procedure specified in Standard Method of Test for Flashpoint by Tag Closed Tester (ASTM D56-70) for determining the flashpoint of a liquid of a described class, on the ground that the Tag Closed Tester, ASTM D56-70 too frequently gives misleading results, and therefore is not a suitable test method for the proposed use;

(2) Proposed § 1910.106(a)(14)(ii), which would require the procedure specified in the Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester (ASTM D93-71) for determining the flashpoint of a liquid of a described class, on the ground that the procedure is unreliable and, in addition, not suitable for all the members of the described class of liquids;

(3) Proposed § 1910.106(a)(14)(iii), on the ground that the procedure proposed therein for determining the flashpoints of certain mixtures, (a) is totally new, and its validity not established, (b) is too general and vague to permit proper reproducibility of results, and (c) makes no provision for film formers, highly viscous materials, or for materials which contain less than 10 percent of volatile components, the rest being of low or very low volatility;

(4) Proposed § 1910.106(a)(18) and (19), which would contain the proposed new definitions of "combustible liquid" and "flammable liquid," on the ground that the proposed definitions, if adopted, would cause a significant change in the present requirements, which were not intended in the proposal; and

(5) Proposed § 1910.106(d)(1)(ii), on the ground that the exception for beverages does not include other small package liquid commodities presenting a similar or even identical level of hazard.

The last objection, to proposed § 1910.106(d)(1), falls outside the scope of the proposal. The only change proposed in paragraph (d)(1)(ii) of § 1910.106 is to substitute "Class I or Class II liquids" for "flammable liquids" in the present subdivision (ii) (*b*), in conformity with the proposed new definitions of "flammable liquid" and "combustible liquid." No substantive changes were proposed in paragraph (*d*)(1)(ii) and, indeed, no change at all, not even one of terminology, was proposed in subdivision (ii) (*d*). Therefore the objections to subdivision (ii) (*d*) are not relevant to the proposal, and the request for a hearing on the issue of the eligibility of other products for inclusion in subdivision (ii) (*d*) of § 1910.106(d)(1) is denied.

Accordingly, in accordance with and pursuant to, section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593), 29 *CFR* 1910.4, and 29 *CFR* 1911.11, notice is hereby given of an informal hearing on the following issues:

(1) Whether the procedure described in proposed § 1910.106(a)(14)(i) is reliable and suitable for determining the flashpoints of the liquids defined therein;

(2) Whether the procedure described in proposed § 1910.106(a)(14)(ii) is (a) reliable and suitable for any of the liquids defined therein, and (b) is reliable and suitable for all the liquids defined therein;

(3) Whether the procedure described in proposed § 1910.106(a)(14)(iii) is reliable and suitable for determining the flashpoint of the mixtures of compounds defined therein;

(4) Whether proposed paragraph (a)(18) and (19) of § 1910.106, would, if adopted, cause, a significant change in present requirements; whether such changes are reasonably necessary or appropriate to assure a safe place of employment; and whether the proposed "99 percent" provision is adequate; and

(5) Any other issue closely related to the objections made by the Chemical Specialties Manufacturers Association, Inc., and within the scope of the proposal.

Oral data, views, and arguments concerning any of the issues described above will be received by Hearing Examiner Samuel A. Chaitovitz at an informal hearing beginning at 11 a.m. on November 8, 1972, in Rooms 216, A, B, C, and D, Main Labor Building, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210.

Persons desiring to appear at the hearing must file with the Office of Standards, Room 305, Railway Labor Building, 400 First Street NW., Washington, DC 20210, a notice of intention to appear, not later than September 29, 1972. The notice must state the name and address of the person to appear, the capacity in which he will appear, and the approximate amount of time required for his presentation. The notice must also include, or be accompanied by, a statement of the position to be taken with regard to any issue, and of the evidence to be adduced in support of the position.

Beginning at 10 a.m., on November 8, 1972, the presiding hearing examiner will hold a prehearing conference in order to establish the order and time for the presentations, and in order to settle any other matter relating to the proceeding. All documents that are intended to be submitted for the record at the hearing should be submitted in duplicate.

The hearing shall be conducted in accordance with the rules of procedure in 29 CFR Part 1911.

Signed at Washington, D.C., this 10th day of August, 1972.

GEORGE C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-12886 Filed 8-14-72;8:52 am]

Office of the Secretary

[29 CFR Parts 1, 5]

DETERMINATION OF MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Proposed Variation Permitting Use of Certain Negotiated Housing Rates in Allegheny County, Pa.

We have received a request from the Mellon Stuart Co., and the Pittsburgh Building and Construction Trades Council that we provide for the payment of lower than prevailing commercial rates on low rise residential construction in Allegheny County, Pa.

The Pittsburgh Building and Construction Trades Council has negotiated with Mellon Stuart Co. of Pittsburgh, Pa., an agreement for the payment on housing construction in Allegheny County (other than high rise housing) of wage rates 10 percent below the negotiated rates for commercial construction in such county. The parties to the agreement have requested, and the Department of Housing and Urban Development has recommended, that provision be made pursuant to applicable regulations of the Department of Labor (29 CFR Parts 1 and 5) for the acceptance of the payment of wages at such specially negotiated rates on low rise residential construction in Allegheny County as satisfying the requirements of Department of Labor wage determinations applicable to contracts for such work pursuant to the Davis-Bacon Act and related statutes.

For many classifications the Department of Labor, under the Davis-Bacon Act and related statutes, is currently recognizing as prevailing for housing construction in Allegheny County the negotiated commercial rates bargained by the Pittsburgh Building and Construction Trades Council. As the lower negotiated rates have not as yet been paid, the request has been made that the Department of Labor take appropriate action to permit the payment of rates 10 percent below the negotiated commercial

rates on Federal and federally assisted housing construction (other than high rise housing) in Allegheny County.

It appears that such action may be necessary and proper in the public interest. Several pertinent factors may support such a finding. The rates involved were arrived at as a result of collective bargaining between the parties. Recognition of these negotiated rates appears consonant with the national policy of promoting collective bargaining and with the administration's stabilization program designed to combat inflation. Such action would also stimulate the construction of needed low cost housing in the area and promote employment opportunities.

In view of the above facts, and in consideration of the public interest involved, it is proposed, pursuant to the authority set forth in Reorganization Plan No. 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. Appendix), in 29 CFR 5.13, and in Secretary of Labor's Orders 13–71 and 15–71 (36 F.R. 8755, 8756), that a variation be granted from the provisions of 29 CFR 1.2(a) to permit the payment in Allegheny County of minimum wage rates 10 percent less than negotiated commercial rates on housing projects (other than high rise housing projects) subject to the Davis-Bacon and related statutes. The proposed variation would not be applicable to contracts entered into, or in the case of National Housing Act projects construction started, 12 months after the date of its publication in the FEDERAL REGISTER.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Assistant Secretary for Employment Standards, U.S. Department of Labor, Washington, D.C. 20210, within 15 days after publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 10th day of August 1972.

R. J. GRUNEWALD,
Assistant Secretary
for Employment Standards.

[FR Doc.72–12848 Filed 8–14–72;8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

CONSTRUCTION OF NEW U.S. MINT, DENVER, COLO.

Notice of Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of the Mint in the Department of the Treasury has prepared a draft environmental impact statement for the location and, in general terms, the construction of a new U.S. Mint at Denver, Colo.

The proposed mint would be located on some 30 acres in the city of Denver bordered by the official Platte River alinement on the east and Highway I-25 (Valley Highway) on the west.

The Mint is being planned for a production capacity of 7.7 billion domestic coins per year and 35 million proof coins and medals per year. It would be designed to provide space for expansion of critical operations and to make possible reasonable expandability of the facility to accommodate increased production requirements as they develop in future years. Although detailed design of the facilities has not yet been started, it has been determined that building space of approximately 700,000 square feet would be needed. The structures would reflect the importance of the governmental function to be performed.

Copies of the statement are available for inspection during regular working hours at the office of the

Facilities Project Manager, Bureau of the Mint, Denver Mint, 320 West Colfax Avenue, Denver, CO,

and at the

Office of the Director, Bureau of the Mint, Room 2064, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, DC 20220.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151 for $3.

Copies of the environmental impact statement have been sent to various Federal, State, and local agencies and citizens' groups as outlined in the guidelines of the Council on Environmental Quality. Comments are invited from any State and local agencies which are authorized to develop and enforce environmental standards and from any Federal agencies having jurisdiction by law and by special expertise with respect to any environmental impact of the proposed facility from which comments have not been requested specifically. Comments from the public are also invited.

Comments concerning the proposed action and any requests for additional information should be addressed to:

Facilities Project Manager, Bureau of the Mint, Denver Mint, 320 West Colfax Avenue, Denver, CO 80204.

Comments must be received within 30 days from the date of publication of this notice in order to be considered in the preparation of the final environmental impact statement.

[SEAL] WILLIAM L. DICKEY,
Deputy Assistant Secretary of the Treasury.

AUGUST 10, 1972.

[FR Doc.72-12873 Filed 8-14-72;8:52 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[Order No. 73, Revised, Amdt. 1]

ASSISTANT DIRECTOR, SERVICE CENTER OPERATIONS

Delegation of Authority

Sections 1 and 2 of National Park Service Order No. 73, revised, published in the FEDERAL REGISTER of March 29, 1972 (37 F.R. 6409) are hereby amended to include the Director, Harpers Ferry Center. Section 3 is amended to add the revocation of National Park Service Order No. 65 (36 F.R. 5629), as amended.

SECTION 1. *Delegation.* The Assistant Director, Service Center Operations may exercise all the authority now or hereafter vested in the Director, National Park Service in administering and operating the Denver Service Center and Harpers Ferry Center and in serving the regional offices and parks, except as to the following:

* * * * *

SEC. 2. *Redelegation.* The Assistant Director, Service Center Operations, may, in writing, redelegate to his officers and employees the authority delegated in this order, and may authorize written redelegations of such authority except that contract and procurement authority in excess of $50,000 may only be redelegated to the Director, Denver Service Center; Chief, Contracting Office, Denver Service Center; and Director, Harpers Ferry Center. Each redelegation shall be published in the FEDERAL REGISTER.

SEC. 3. *Revocation.* * * * National Park Service Order No. 65 (36 F.R. 5629), as amended, is hereby revoked.

(205 DM as amended; 245 DM, as amended; sec. 2 of Reorganization Plan No. 3 of 1950)

Dated: August 4, 1972.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

[FR Doc.72-12835 Filed 8-14-72;8:48 am]

Office of the Secretary

HARLEY L. COLLINS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 14, 1972.

Dated: July 14, 1972.

HARLEY L. COLLINS.

[FR Doc.72-12823 Filed 8-14-72;8:46 am]

RAY F. DAVIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of July 13, 1972.

Dated: July 13, 1972.

RAY F. DAVIS.

[FR Doc.72-12824 Filed 8-14-72;8:47 am]

B. M. GUTHRIE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 5, 1972.

Dated: July 5, 1972.

B. M. GUTHRIE.

[FR Doc.72-12825 Filed 8-14-72;8:47 am]

B. C. HULSEY

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1972.

Dated: July 4, 1972.

B. C. HULSEY.

[FR Doc.72-12826 Filed 8-14-72;8:47 am]

ANDREW P. JONES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of June 30, 1972.

Dated: July 6, 1972.

ANDREW P. JONES.

[FR Doc.72-12827 Filed 8-14-72;8:47 am]

CARLOS O. LOVE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 1, 1972.

Dated: July 7, 1972.

CARLOS O. LOVE.

[FR Doc.72-12828 Filed 8-14-72;8:47 am]

JOHN MADGETT

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 6, 1972.

Dated: July 6, 1972.

JOHN MADGETT.

[FR Doc.72-12829 Filed 8-14-72;8:47 am]

ROBERT J. MARCHETTI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 6, 1972.

Dated: July 6, 1972.

ROBERT J. MARCHETTI.

[FR Doc.72-12830 Filed 8-14-72;8:47 am]

SAMUEL RIGGS SHEPPERD

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of July 17, 1972.

Dated: July 17, 1972.

SAMUEL RIGGS SHEPPERD.

[FR Doc.72-12831 Filed 8-14-72;8:47 am]

WILLARD B. SIMONDS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 14, 1972.

Dated: July 14, 1972.

WILLARD B. SIMONDS.

[FR Doc.72-12832 Filed 8-14-72;8:47 am]

FRED M. TREFFINGER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 7, 1972.

Dated: July 7, 1972.

FRED M. TREFFINGER.

[FR Doc.72-12833 Filed 8-14-72;8:47 am]

C. N. WHITMIRE

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) Delete: Dart Ind. Add: Eckard, Jack.
(3) None.
(4) None.

This statement is made as of July 1, 1972.

Dated: July 14, 1972.

C. N. WHITMIRE.

[FR Doc.72-12834 Filed 8-14-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

CHEROKEE NATIONAL FOREST

Transfer of Certain Lands

Pursuant to authority vested in me by the Act of August 10, 1964 (78 Stat. 388), and the delegation of authority and assignment of functions by the Secretary of Agriculture dated November 27, 1964 (29 F.R. 16210), the following described lands are hereby transferred to the jurisdiction of the Secretary of the Interior for administration as a part of the Great Smoky Mountains National Park and available for the scenic Foothills Parkway.

FOOTHILLS PARKWAY, COCKE COUNTY, TENN. PARCELS NOS. 1 AND 2, SECTION 8A

Part of the Cherokee National Forest Tracts A. C. Lawrence Leather Goods Co., Tract No. 447.

Parcel No. 1: Beginning at a point in the eastern or southeastern boundary of the Foothills Parkway in the vicinity of "P" line station 80+100 of Section 8A of the Foothills Parkway, said point being S. 37°22'45" W., 312.15 feet from Corner No. 14 of said parkway right-of-way and N. 37°22'45", 369.13 feet from Corner No. 15 of said right-of-way;

Thence with the parkway right-of-way line: S. 37°22'45" W., 369.13 feet to Corner 15; S. 65°48'59" W., 258.99 feet to a point where the line of the Cherokee National Forest intersects said right-of-way;

Thence with the Forest Service line: N. 60°01'59" E., 291.17 feet to U.S. Forest Service Corner No. 81;

Thence N. 75°40'15" E., 443.72 feet to the point of beginning. Containing 1.913 acres.

Parcel No. 2: Located approximately 1,000 feet west of Parcel No. 1, and beginning at Corner No. 18 of Foothills Parkway Section 8A, where the line of the Forest Service's land intersects the right-of-way line bearing S. 29°03'08" W. from Corner No. 17, and 317.20 feet distant from Corner No. 17;

Thence with Forest Service land; N. 34°35'58" W., crossing the "P" line of said parkway at Station 93+70.28 at a distance of 360.46 feet, in all a distance of 586.72 feet to Corner No. 19 of the parkway right-of-way; and N. 86°36'58" W., 192.41 feet to Corner No. 84 of said parkway right-of-way;

Thence leaving the exterior line of the Forest Service land and continuing with the northern right-of-way line of the Foothills Parkway; S. 45°04'02" W., 515.01 feet to Corner 84A; N. 82°45'30" W., 356.13 feet to Corner 83; S. 84°11'40" W., 177.91 feet to Corner 82; S. 77°58'50" W., 400.75 feet to Corner 81; N. 81°11'00" W., 575.26 feet to Corner 80; N. 85°57'30" W., 283.70 feet to Corner 79; S. 45°21'30" W., 714.52 feet to Corner 78; S. 41°00'40" W., 646.53 feet to Corner 77; S. 17°07'30" W., 460.98 feet to Corner 76; S. 2°13'40" W., 479.03 feet to Corner 75; S. 67°05'30" W., 441.84 feet to Corner 74; S. 70°16'20" W., 596.02 feet to Corner 73; S. 49°24'10" W., 627.14 feet to Corner 72; S. 3°19'00" W., 69.11 feet to Corner 71; S. 70°50'40" W., 1,253.08 feet to Corner 70 in the line of Forest Service land, said Corner 70 being S. 59°43'30" E., 2,662.23 feet from the U.S.F.S. Corner No. 71, a stone with a + mark chiselled on it (State Corner 69);

Thence leaving the right-of-way line of the Foothills Parkway and with the Forest Service's line, S. 59°43'30" E., crossing the Parkway "P" line at Station 182+87.50 at a distance of 1,615.38 feet, in all 1,997.17 feet to Corner 30C of said parkway, northeast of Caton Gap;

Thence with the southern or southeastern right-of-way line of the Foothills Parkway, the following courses and distances; N. 37°53'54" E., 208.84 feet to Corner 30; N. 18°36'00" E., 1,211.88 feet to Corner 29; S. 65°52'10" E., 895.95 feet to Corner 28; N. 77°59'30" E., 514.29 feet to Corner 27; N. 36°12'30" E., 518.05 feet to Corner 26; N. 15°30'30" W., 485.68 feet to Corner 25; N. 30°34'30" W., 623.59 feet to Corner 24; N. 17°42'30" W., 289.33 feet to Corner 23; N. 37°59'20" E., 492.30 feet to Corner 22; N. 49°11'40" E., 471.92 feet to Corner 21; S. 82°36'50" E., 623.08 feet to Corner 20; N. 86°02'40" E., 1,237.27 feet to Corner 19; N. 58°35'20" E., 416.24 feet to Corner 18A; N. 29°03'08" E., 374.07 feet to Corner 18, the point of beginning. Containing 164.368 acres.

The two areas described aggregate 166.281 acres.

Effective Date. This order shall become effective on the date of its publication in the FEDERAL REGISTER (8-15-72).

Dated: August 9, 1972.

T. K. COWDEN,
Assistant Secretary.

[FR Doc.72-12844 Filed 8-14-72;8:48 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File 28(71)-23]

JACOB KELMER ET AL.

Order Denying Export Privileges for an Indefinite Period

In the matter of Jacob Kelmer, 66 Hanita Street, Haifa, Israel, respondent, DEK Electronics Ltd. and Leonard Dreyer, Post Office Box 7149, 18 Hillel Street, Haifa, Israel.

The Director, Compliance Division, Office of Export Control, Bureau of International Commerce, U.S. Department of Commerce, has applied for an order denying to the above named respondent all U.S. export privileges for an indefinite period because the said respondent, without good cause being shown, failed to furnish answers to interrogatories and failed to furnish certain records and other writings specifically requested.

This application was made pursuant to § 388.15 of the Export Control Regulations (Title 15, Chapter III, Subchapter B, Code of Federal Regulations).

In accordance with the usual practice, the application for an indefinite denial order was referred to the Hearing Commissioner, Bureau of International Commerce, who, after consideration of the evidence, has recommended that the application be granted. The report of the Hearing Commissioner and the evidence in support of the application have been considered.

The evidence presented shows the following: The respondent, Jacob Kelmer, is an electronic engineer and resides in Haifa, Israel; he has engaged in the purchase and sale of electronic equipment; the respondent placed orders with a U.S. supplier for a number of units of strategic electronic equipment; in the period from March 1971 through October 1971 the said U.S. supplier made 11 shipments of such equipment consigned to an intermediary designated by respondent in Vienna, Austria; the said equipment was valued at approximately $100,000; the respondent has stated that the equipment was subsequently received in Israel and disposed of by him.

The Compliance Division is conducting an investigation to ascertain the ultimate disposition of the commodities in question, the manner in which the transactions were carried out, and what other parties, if any, were involved in the transactions.

It is impracticable to subpena the respondent and relevant and material interrogatories relating to the above matters under investigation were served on him pursuant to § 388.15 of the export control regulations. The respondent also, pursuant to said section, was requested to furnish certain specific documents relating to said transactions. He has failed to furnish responsive answers to said interrogatories or to furnish the documents requested, and he has not shown good cause for such failure. I find that an order denying export privileges to said respondent for an indefinite period may properly be entered under § 388.15 of the export control regulations and that such an order is reasonably necessary to protect the public interest and to achieve effective enforcement of the Export Administration Act of 1969.

The evidence presented further shows the following: the respondent and Leonard Dreyer, an electronic engineer, also of Haifa, Israel, are coowners, in equal shares, of the firm DEK Electronics Ltd.; said Dreyer has been involved in dealings with the above mentioned U.S. supplier in that at least one shipment of commodities was made by said supplier to Dreyer in September 1971. By reason of respondent's ownership, control and position of responsibility in the firm DEK Electronics Ltd., and his affiliation and connection with Leonard Dreyer, it is found necessary, to prevent evasion of this denial order, to have it made applicable to them as related parties. Pursuant to § 388.1(b) of the export control regulations, a determination is hereby made that DEK Electronics Ltd. and Leonard Dreyer are related parties to respondent.

Accordingly, it is hereby Ordered:

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondent is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the export control regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportion authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license, or other export control document; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other

servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his agents, employees, representatives, and partners, and to any other person, firm, corporation, or business organization with which the respondent now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith. A determination has been made that DEK Electronics Ltd., and Leonard Dreyer, both of Haifa, Israel, are related parties to the respondent. All of the restrictions of this order are applicable to said related parties.

IV. This order shall remain in effect until the respondent provides responsive answers, written information and documents in response to the interrogatories heretofore served upon him or gives adequate reasons for failure to do so, except insofar as this order may be amended or modified hereafter in accordance with the export control regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondent or any related party, or whereby the respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondent and related parties.

VII. In accordance with the provisions of § 388.15 of the export control regulations, the respondent or the related parties may move at any time to vacate or modify this indefinite denial order by filing with the Hearing Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner, at Washington, D.C., at the earliest convenient date.

This order shall become effective on August 15, 1972.

Dated: August 9, 1972.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.72-12894 Filed 8-14-72;8:53 am]

Office of Import Programs

AMERICAN NATIONAL RED CROSS

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00381-33-09540. Applicant: American National Red Cross, 17th and E Streets NW., Washington, DC 20006. Article: Centrifuge. Manufacturer: Green Cross Corp., Japan. Intended use of article: The article is intended to be used to evaluate a method of plasmapheresis, whereby whole blood is taken from the donor, centrifuged to separate the plasma from the red cells, the plasma is removed and the red cells returned to the donor.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides under sterile conditions continuous operations including taking blood, separating red cells, taking plasma, and returning red cells to the donor. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 7, 1972, that the capabilities described above are pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no comparable domestic instrument which is scientifically equivalent to the article for the purposes for which the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12876 Filed 8-14-72;8:51 am]

INDIANA UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00205-00-46000. Applicant: Indiana University, Bloomington, Ind. 47401. Article: Counting chamber. Manufacturer: Hawskley & Sons, Ltd., United Kingdom. Intended use of article: The article is an accessory for an existing standard microscope.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article provides optimum thickness and design characteristics that permit use with highly corrected objectives of high magnification. Comparable Petroff-Haussen chambers made by domestic manufacturers are not of optimum size and design for the limited working distance of current microscopes. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 14, 1972, that the thickness and design characteristics of the foreign article are pertinent to the purposes for which the article is intended to be used. We, therefore, find that domestic Petroff-Haussen chambers are not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12877 Filed 8-14-72;8:51 am]

LEHIGH UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and

the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00100-65-46040. Applicant: Lehigh University, Bethlehem, Pa. 18015. Article: Electron microscope, EM 300 and accessories. Manufacturer: Philips Electronic Instruments, the Netherlands. Intended use of article: The article is to be used to investigate the ultrastructure of biological specimens and the fine structure of metals, minerals, and polymers. The crystallography of various phases and imperfections of the metals, minerals, and polymers will also be examined. The article will also be used to train students in courses of electron microscopy and electron metallography.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the National Bureau of Standards in its memorandum dated July 11, 1972, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this articles intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12878 Filed 8-14-72;8:51 am]

STATE UNIVERSITY OF NEW YORK

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket Number: 72-00204-00-00520. Applicant: State University of New York, Accelerator Laboratories, 1400 Washington Avenue, Albany, NY 12203. Article: Target housing for accelerator. Manufacturer: Nukem, West Germany. Intended use of article: The article will be used with an accelerator for research in nuclear physics.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article satisfies the applicant's requirement for a rotating target assembly with high current capability and high power dissipation in conjunction with small temperature rise. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 10, 1972, that the characteristics of the article described above are pertinent to the applicant's intended purposes. NBS further advises that it knows of no domestically manufactured instrument scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12882 Filed 8-14-72;8:51 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00045-33-07700. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Streak camera. Manufacturer: John Hadland Ltd., United Kingdom. Intended use of article: The article will be used to photograph the motion of the high temperature plasma column in the Scyllac theta-pinch device.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for taking up to 20 frames. The image converter camera manufactured by TRW Instruments, El Segundo, Calif., provides a maximum of five frames. We are advised by the National Bureau of Standards (NBS) in its memorandum dated June 29, 1972, that the capability for taking up to 20 frames is pertinent to the purposes for which the article is intended to be used. NBS further advises that it knows of no domestically manufactured instrument of equivalent scientific value to the article for such purposes as this article is intended to be used.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12879 Filed 8-14-72;8:51 am]

UNIVERSITY OF CHICAGO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00221-75-44500. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Research micro-metallograph. Manufacturer: E. Leitz, Inc., West Germany. Intended use of article: The article is intended to be used to examine highly radioactive experimental fuel materials for reactors. The usual fuel materials being examined will consist of long slim cylinders of uranium and plutonium contained in a tubular jacket of stainless steel. Typical metallographic samples will consist of short cross sections of the fuel or tubing suitably mounted and polished.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides nonbrowning objectives, remote stage motions and vacuum-tight seals which permit use with highly radioactive materials. We are advised by the National Bureau of Standards (NBS) in its

memorandum dated July 10, 1972, that the characteristics of the article described above are pertinent to the applicant's research studies. NBS further advises that it knows of no domestically manufactured instrument satisfying the pertinent specifications.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12880 Filed 8-14-72;8:51 am]

UNIVERSITY OF CHICAGO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00263-33-42800. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Article: Pulsed bending magnet. Manufacturer: Brown Boveri, Switzerland. Intended use of article: The article will be used to promote efficient operation of the zero gradient synchrotron (ZGS) through time sharing the beam among a number of experiments during a single ZGS pulse.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is especially designed for use as an accessory with the applicant's zero gradient synchroton. We are advised by the National Bureau of Standards (NBS) in its memorandum dated July 10, 1972, that a pulsed bending magnet of the general specifications of the foreign article is pertinent to the applicant's research studies. NBS further advises that it knows of no domestically manufactured instrument scientifically equivalent to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12881 Filed 8-14-72;8:51 am]

UNIVERSITY OF ROCHESTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00405-33-46040. Applicant: University of Rochester, School of Medicine, Department of Pathology, 260 Crittenden Boulevard, Rochester NY 14642. Article: Electron microscope Model HS-8, and accessory. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used for educational purposes for introduction of electron microscopy as an elective for successive groups of 3-4 medical students, for graduate students and residents. Fundamentals of electron microscopy, with emphasis only on basic procedures in the operation of an electron microscope are covered. This introduction is also given as part of Course 593 "Special Topics in Pathology" to graduate students in each academic year.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 7, 1972, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's education purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12883 Filed 8-14-72;8:51 am]

WISTAR INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00428-33-09300. Applicant: The Wistar Institute, 36th and Spruce Streets, Philadelphia, Pa. 19104. Article: Velocity sedimentation cell separator. Manufacturer: Johns Scientific, Canada. Intended use of article: The article is intended to be used to separate the following cells and to examine their functions using standard biochemical techniques: Chick erythroid cells; chick myogenic cells; Chinese hamster cells grown in culture, infected and not infected with DNA viruses; mouse macrophages; spermiogenic cells, hybrid cells which have arisen as a consequence of fusion using experimental manipulation of different cell types. The experiments to be conducted will involve the selection of specific subpopulations from populations of the cells abovementioned, and to examine their biological functions and the synthesis of specific macromolecules such as Hb, DNA, etc., using a variety of biophysical and biochemical techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant's use in studies on biological function and synthesis capabilities of cell subpopulations to be separated from tissue culture cell populations will require the unique integrated assemblage of glassware, and other components configured for optimum performance which is provided by the foreign article. We are advised by

the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 14, 1972, that the optimum performance of the article is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no comparable domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director, Office of Import Programs.

[FR Doc.72-12884 Filed 8-14-72;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3B2819]

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 3B2819) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2536 *Filters, resin-bonded* (21 CFR Part 121) be amended to provide for the safe use of melamine-formaldehyde chemically modified with methyl alcohol as a component of resin-bonded filters in contact with food.

Dated: August 8, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-12814 Filed 8-14-72;8:46 am]

[FAP 3B2817]

PPG INDUSTRIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 3B2817) has been filed by PPG Industries, Inc., Post Office Box 312, Delaware, Ohio 43015 proposing that § 121.2514 *Resinous and polymeric coatings* (21 CFR Part 121) be amended in paragraph (b) (3) (xx), for the item: "Butyl acrylate-styrene-methacrylic acid-hydroxyethyl methacrylate copolymers, etc." (1) to delete the restriction regarding foods containing no more than 8 percent alcohol and (2) to increase the currently permitted use temperatures for the coating in contact with food from below 150° F. to above 150° F.

Dated: August 8, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-12813 Filed 8-14-72;8:45 am]

National Institutes of Health

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

Notice of Meeting

Pursuant to Executive Order 11671 notice is hereby given of the meeting of the National Advisory Council on Health Professions Education, August 14–16, 1972, at 8:30 a.m., National Institutes of Health, Building 31–C, Conference Room No. 6, Miss Lynn Stevens, Executive Secretary.

This meeting will be open from 8:30 a.m. to 12 m., August 14, 1972, and closed 1 to 5 p.m., August 14, 1972, 8:30 a.m. to 5 p.m., August 15 and 16, 1972, to review applications in accordance with section 13(d) of Executive Order 11671.

Dated: August 7, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

[FR Doc.72-12836 Filed 8-14-72;8:48 am]

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968, as amended) is hereby amended with regard to section 3-30, *Delegations of Authority*, as follows:

After the subparagraph numbered (16) of the paragraph entitled "Specific delegations," add a new paragraph reading:

(17) The functions for which the Secretary is responsible under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616) relating to developing and conducting comprehensive health, education, training, and research and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

Date: August 8, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-12862 Filed 8-14-72;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24518]

CESKOSLOVENSKE AEROLINIE

Notice of Postponement of Hearing Regarding Renewal of Foreign Air Carrier Permit

Notice is hereby given that the hearing in the above-entitled proceeding now scheduled for August 16, 1972 (37 F.R. 12337, June 22, 1972), is postponed to August 18, 1972, 10 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., on August 10, 1972.

[SEAL] JAMES S. KEITH,
Hearing Examiner.

[FR Doc.72-12859 Filed 8-14-72;8:50 am]

[Docket No. 23486; Order 72-8-37]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority August 8, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the traffic conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated CAB agreement number.

The agreement would amend existing resolutions governing normal first-class and economy fares applicable within Africa by increasing add-on amounts for Zambian domestic points. We will herein approve the agreement, which might have indirect application in air transportation (as defined by the Act) in the construction of through fares to/from the United States.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the following resolutions, which are incor-

porated in Agreement CAB 23227 and which do not directly affect air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB 23227

200 (Mail 157) 052.	JT23 (Mail 306) 055.
200 (Mail 157) 062.	JT23 (Mail 306) 065.

Accordingly, it is ordered, That:

Agreement CAB 23227 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order. Board upon expirataion of the above pecome the action of the Civil Aeronautics Board upon expiration o fthe above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-12867 Filed 8-14-72;8:50 am]

[Docket No. 21136, etc.; Order 72-8-48]

RENO-PORTLAND/SEATTLE NONSTOP SERVICE INVESTIGATION

Order of Remand

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of August 1972.

The Board has decided to reopen and remand the above-named investigation to the examiner for further evidentiary hearings and a supplemental initial decision.

We find that the current record, with 1968 as the base year and 1972 as the forecast year, is stale and note, in this connection, that the normal growth rates adopted by the examiner on the basis of 1963-68 historical experience appear to be excessive in view of more recent traffic trends. Fresh record evidence, subject to cross-examination at a formal hearing, is therefore desirable.

We expect all the carrier applicants to submit detailed revised service proposals and financial estimates based upon the latest available traffic and cost data.

Accordingly, it is ordered, That:

1. This proceeding be and it hereby is reopened and remanded to the examiner for further evidentiary hearings in accordance with such expedited procedures as he may deem appropriate.

2. The issues on remand shall be the same as those in the original proceeding.

3. The examiner shall issue a supplemental initial decision on all the issues in the proceeding.

4. All parties to the original proceeding shall be parties to the reopened and remanded proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-12868 Filed 8-14-72;8:50 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE FEDERATIVE REPUBLIC OF BRAZIL

Entrance for Consumption

AUGUST 10, 1972.

On October 8, 1971, there was published in the FEDERAL REGISTER (36 F.R. 19626), a letter dated September 28, 1971, from the Chairman, President's Cabinet Textile Advisory Committee, to the Commissioner of Customs, establishing a level of restraint of 11,025,000 square yards for cotton textile products in Categories 18/19 and part of 26 (printcloth), produced or manufactured in the Federative Republic of Brazil, and exported to the United States during the 12-month period beginning October 1, 1971, and extending through September 30, 1972. On June 19, 1972, the level of restraint applicable to cotton textile products in Categories 18/19 and part of 26 (printcloth) was amended to 11,576,250 square yards. (See 37 F.R. 12338.)

There is published below a letter of August 10, 1972 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs further amending the directive of September 28, 1971 by increasing the level of restraint applicable to imports of cotton textile products in Categories 18/19 and part of 26 (printcloth) from the Federative Republic of Brazil.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226

AUGUST 2, 1972.

DEAR MR. COMMISSIONER: This directive further amends but does not cancel the directive issued to you on September 28, 1971, from the Chairman, President's Cabinet Textile Advisory Committee, regarding imports into the United States of cotton textiles and cotton textile products in certain categories, produced or manufactured in the Federative Republic of Brazil.

Under the terms of the Long-Term Arrangement regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to further amend, effective as soon as possible, the level of restraint established in the aforesaid directive of September 28, 1971, as amended, for cotton textile products in Categories 18/19 and part of 26 (printcloth), produced or manufactured in the Federative Republic of Brazil, as set forth below:

Category	*Amended 12-month level of restraint* [2]
18/19 and part of 26 (printcloth) [1]	square yards 12,576,250

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from the Federative Republic of Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-12939 Filed 8-14-72;8:53 am]

CERTAIN MANMADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry Into the United States for Consumption

AUGUST 11, 1972.

On March 10, 1972, there was published in the FEDERAL REGISTER (37 F.R. 5149) a letter of March 6, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs implementing those provisions of the bilateral wool and manmade fiber textile agreement of January 4, 1972, between the Governments of the United States and the Republic of Korea which establish specific export limitations on wool and manmade fiber textile products in certain categories, produced or manufactured in the Republic of Korea, for the agreement year beginning October 1, 1971.

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[1] In Category 26, the T.S.U.S.A. Nos. for printcloth are:

320.--34	322.--34	327.--34
321.--34	326.--34	328.--34

[2] This amended level of restraint has not been adjusted to reflect any entries made on or after October 1, 1971.

The notice which accompanied the aforesaid letter, and was also published in the FEDERAL REGISTER on March 10, 1972, contained the following statement:

The agreement also contains provisions for the establishment of consultation levels for those categories not having specific export limitations for the agreement year beginning October 1, 1971. These levels, which are initially to be controlled by the Government of the Republic of Korea, could at a later date be controlled by the U.S. Government like those categories having specific export limitations.

A level of 3,846,154 pounds was established for manmade fiber textile products in Category 224, produced or manufactured in the Republic of Korea, for the agreement year beginning October 1, 1971. Entries charged by the Bureau of Customs through July 29, 1972, have exceeded that level.

Accordingly, there is published below a letter of August 11, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that, effective as soon as possible and extending through September 30, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of manmade fiber textile products in Category 224, produced or manufactured in Korea and exported therefrom to the United States during the period beginning October 1, 1971, be prohibited.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

AUGUST 11, 1972.

DEAR MR. COMMISSIONER: Under the provisions of the bilateral Wool and Man-Made Fiber Textile Agreement of January 4, 1972, between the Governments of the United States and the Republic of Korea and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective as soon as possible, and for the period extending through September 30, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of manmade fiber textile products in Category 224, produced or manufactured in the Republic of Korea.

Entries of manmade fiber textile products in the above category produced or manufactured in the Republic of Korea and which have been exported to the United States prior to October 1, 1971, shall not be subject to this directive.

Manmade fiber textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the manmade fiber textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 F.R. 8802).

In carrying out this directive, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of manmade fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-12938 Filed 8-14-72;8:53 am]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Availability of Agency Comments

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from July 16, 1972, to July 31, 1972, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of the nature of EPA's comments, and the source for copies of the comments.

Appendix II contains definitions of the four classifications of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix III contains a listing of the addresses of the sources for copies of EPA comments listed in Appendix I.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Dated: August 4, 1972.

WILLIAM HOLMBERG,
Acting Director,
Office of Federal Activities.

APPENDIX I

ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN JULY 16, 1972 AND JULY 31, 1972

Responsible Federal agency	Title and identifying number	General nature of comments	Source for copies of comments
Corps of Engineers	D-COE-32370-07: Maintenance of Mamaroneck Harbor, N.Y.	2	C
Do	D-COE-32360-00: Inland Waterway from Delaware River to Chesapeake Bay.	3	D
Do	D-COE-32360-12: Raystown Lake on Juniata River, Huntingdon and Bedford Counties, Md.	2	D
Do	D-COE-01091-17: Camp Ground Lake Salt River Basin, Ky.	2	E
Do	D-COE-32372-17: Carr Fork Lake South Fork, Ky.	2	E
Do	D-COE-31042-29: Whitecak Dam and Reservoir Project, Brown County, Ohio.	2	F
Do	D-COE-32361-15: Fountain Creek Snagging and Clearing, Colo.	2	I
Do	D-COE-32009-16: Maintenance Dredging of Noyo River Channel, Calif.	2	J
Do	D-COE-32357-05: 40-Foot Navigation Channel Sloughters Bar Reach, Oreg.	1	K
Department of Agriculture	D-DOA-00251-17: Disposal of Government Land Lake Barkley, Ky.	1	E
Do	D-DOA-03143-23: Red Boiling Springs Project, Tenn.	2	E
Do	D-DOA-07057-12: Blue Mesa to Lake City Transmission Line, Colo.	2	I
Department of the Interior	D-DOI-01001-09: Agricultural Hall of Fame National Park.	2	H
Do	D-DOI-31045-15: Longdraw Reservoir and enlargement, Colo.	1	I
Do	D-DOI-83000-03: Warm Springs National Fish Hatchery.	1	K
Department of Transportation	D-DOT-51153-34: Aransas County Airport Rockport, Tex.	2	A
Do	D-DOT-41330-06: Proposed Route 55 Freeway Thru Gloucester County, N.J.	2	C
Do	D-DOT-41321-07: North Arterial Highway Central Park Avenue to New York Post Road Westchester County, N.Y.	2	C
Do	D-DOT-41375-15: Highway Development Route 23 Wise County, Va.	1	D
Do	D-DOT-41344-17: Mount Sterling Bypass Montgomery County, Ky.	1	E
Do	D-DOT-41343-21: State Road 63 Lee County, Fla.	1	E
Do	D-DOT-41377-17: Harlan-Virginia State Line Road Harlan County, Ky.	1	E
Do	D-DOT-41370-23: State Route 3 Obion County, Tenn.	1	E
Do	D-DOT-41364-21: State Road 206 St. John's County, Fla.	1	E
Do	D-DOT-41362-21: Duval County, Florida Road 10A, Fla.	1	E
Do	D-DOT-51152-17: Henderson City County Airport, Ky.	2	E
Do	D-DOT-50102-18: Proposed Bridge Across Smith Creek Oriental, N.C.	1	E
Do	D-DOT-41333-17: Kenton Campbell Counties, Kentucky Bridge Over Licking River, Ky.	1	E
Do	D-DOT-41337-19: East Cambridge Avenue Proposed Widening, Greenwood, S.C.	1	E
Do	D-DOT-40947-38: U.S. 69 Switzer Bypass Johnson County, Kans.	3	H

APPENDIX I—Continued

Responsible Federal agency	Title and identifying number	General nature of comments	Source for copies of comments
Do	D-DOT-41326-29: State Road 23 (Relocation and improvement) Wyandot, Wood Counties, Ohio.	1	F
Do	D-DOT-41319-27: FA Route 24 Section IZ-6 La Salle County, Ill.	1	F
Do	D-DOT-51160-2 Olney-Noble Airport, Richland County, Ill.	1	F
Do	D-DOT-41367-27: FA Route 433 Will and Cook Counties, Ill.	1	F
Do	D-DOT-41334-25: I-94 Lakeshore Drive Berrien County, Mich.	1	F
Do	D-DOT-41331-26: U.S. Route 50, Ripley County, Ind.	1	F
Do	D-DOT-51161-29: Cincinnati Municipal Airport-Blue Ash Airport Hamilton County, Ohio.	2	F
Do	D-DOT-41348-38: 50-56 U 050(9) Lyon County, Kansas	2	H
Do	D-DOT-51179-39: Lambert St. Louis International Airport, Mo.	2	H
Do	D-DOT-41390-36: RF-329(11) Genoa-South Nebraska	2	H
Do	D-DOT-41389-38: 77-18 RF 055-1(13) and (19) Cowley County, Kans.	2	H
Do	D-DOT-41101-37: Iowa 21 Benton and Tama Counties, Iowa.	2	H
Do	D-DOT-41399-39: Cuba Municipal Airport Crawford County, Mo.	1	H
Do	D-DOT-41398-38: Project 54 S 630(4) Linn County, Kans.	1	H
Do	D-DOT-51181-42: Howes Municipal Airport Huron, S. Dak.	1	I
Do	D-DOT-51180-45: Montrose County Airport, Colo	1	I
Do	D-DOT-50095-41: Lake Oahe Bridge and Connecting Roads, N. Dak.	1	I
Do	D-DOT-41359-42: F-030-5 Kingsbury County, S. Dak.	1	I
Do	D-DOT-41357-45: Highway Project I-15 Butte to Boulder, Colo.	2	I
Do	D-DOT-41351-51: Southwest Roxbury Street Widening.	2	K
Federal Power Commission	D-FPC-05304-39: Niangua Hydro Project No. 2561 Mo.	2	H
Department of Health, Education, and Welfare.	D-HEW-81092-04: Martha's Vineyard Hospital, Oak Bluffs, Mass.	1	B
Department of Housing and Urban Development.	D-HUD-81023-10: Proposed Desalinization Plants, St. Thomas and St. Croix, Virgin Islands.	2	C

APPENDIX II

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General agreement/lack of objections.* The Agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) Suggests only minor changes in the proposed action or the draft impact statement; or

(c) Has no comments on the draft impact statement or the proposed action.

(2) *Inadequate information.* The Agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The Agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major changes necessary.* The Agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory.* The Agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The Agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX III

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

C. Director of Public Affairs, Region II, Environmetal Protection Agency, Room 847, 26 Federal Plaza, New York, NY 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, TX 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, MO 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, CO 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

[FR Doc.72-12694 Filed 8-14-72;8:54 am]

ABBOTT LABORATORIES

Notice of Filing of Petition Regarding Microbial Pesticide

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U.S.C. 346a(d) (1)), notice is given that a petition (PP 2F1282) has been filed by Abbott Laboratories, North Chicago, Ill. 60064, proposing establishment of an exemption from the requirement of a tolerance for residues of the microbial insecticide *Bacillus thuringiensis* Berliner in or on the raw agricultural commodities brussels sprouts, peas, soybeans, and walnuts.

The analytical method proposed in the petition for determining residues of the microbial insecticide is that of R. A. Fisher, "Analytical Methods for Pesticides and Food Additives," vol. 1, pp. 425-442 (1963).

Dated: August 8, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-12855 Filed 8-14-72;8:49 am]

2-CHLORO-2',6'-DIETHYL-N-(BUTOXYMETHYL)ACETANILIDE

Notice of Establishment of Temporary Tolerances

Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166, submitted a petition (PP 2G1207) requesting establishment of temporary tolerances for combined residues of the herbicide 2 - chloro - 2',6' - diethyl - *N* - (butoxymethyl) acetanilide and its metabolites calculated as 2-chloro-2',6'-diethyl-*N*-(butoxymethyl) acetanilide in or on the raw agricultural commodities rice straw at 3 parts per million and rice at 0.5 part per million (negligible residue).

It has been determined that temporary tolerances for combined residues of the herbicide and its metabolites in or on rice straw at 3 parts per million and rice at 0.5 part per million will protect the public health. They are therefore established as requested on condition that the herbicide be used in accordance with the temporary permit being issued concurrently by the Environmental Protection Agency and which provides for distribution under the Monsanto Co. name.

These temporary tolerances expire August 8, 1973.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038).

Dated: August 8, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator for Pesticides Programs.

[FR Doc.72-12856 Filed 8-14-72;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. CI73-2, etc.]

GETTY OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 10, 1972.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 8, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

MARY B. KIDD,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI73-2 A 7-3-72	Getty Oil Co., Post Office Box 1404, Houston, TX 77001.	Michigan Wisconsin Pipe Line Co., Eugene Island Block 260, Offshore Iberia and St. Mary, La.	26.0	15.025
CI73-6 A 7-5-72	J. M. Huber Corp., 2000 West Loop South, Houston, TX 77027.	Arkansas Louisiana Gas Co., Mathers Ranch Area, Hemphill County, Tex.	20.5	14.65
CI73-8 B 7-6-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Natural Gas Pipeline Co. of America, Mutual Area, Woodward County, Okla.	Depleted	
CI73-9 A 7-7-72	do	Arkansas Louisiana Gas Co., Northwest O'Keene Field, Blaine County, Okla.	18.8	14.65
CI73-11 B 7-10-72	Amoco Production Co., Post Office Box 3092, Houston, TX 77001.	Transwestern Pipeline Co., West Rojo Caballos, Pecos County, Tex.	Depleted	
CI73-12 A 7-10-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Michigan Wisconsin Pipe Line Co., Eugene Island Area, Offshore Louisiana.	26.0	15.025
CI73-13 A 7-5-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	El Paso Natural Gas Co., San Juan Basin, San Juan County, N. Mex.	[2] 23.0	15.025
CI73-14 A 7-7-72	do	Transwestern Pipeline Co., Maljamar Area, Lea County, N. Mex.	30.0	14.65
CI73-16 A 7-10-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Florida Gas Transmission Co., Norphlet Sand Pool, Flomaton Field, Escambia County, Ala.	[3] 40.63	14.65
CI73-17 (G-17379) B 6-23-72	Texaco, Inc., Post Office Box 52332, Houston, TX 77052.	Transwestern Pipeline Co., Harper Field, Clark County, Kans.	Uneconomical	
CI73-18 B 6-23-72	Eason Oil Co., Post Office Box 18755, Oklahoma City, OK 73118.	Lone Star Gas Co., Weakley Yates Field, Stephens County, Okla.	(7)	
CI73-19 [4] A 7-3-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Northern Natural Gas Co., Camp Creek Area, Beaver County, Okla.	[5] 20.0689	14.65
CI73-21 A 7-11-72	Texaco, Inc., Post Office Box 60252, New Orleans, LA 70160.	Southern Natural Gas Co., Eugene Island Block 270 Field, Offshore Louisiana.	[5] 26.0	15.025
CI73-22 A 7-10-72	Pennzoil Co., 900 Southwest Tower, Houston, Tex. 77002.	Transwestern Pipeline Co., SE/4 sec. 6, 23 S.-27 E., Eddy County, N. Mex.	[5] 30.0	14.65
CI73-23 A 7-12-72	do	Transwestern Pipeline Co., E/2 sec. 21—15° S. 25° E., Eddy County, N. Mex.	[6] 32.46	14.65
CI73-24 A 7-13-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Little Polecat Field, Park County, Wyo.	[7] 26.6655	15.025
CI72-25 F 7-6-72	Exchange Oil & Gas Corp. (successor to Ocean Drilling and Exploration Co.), 1010 Common St., New Orleans, LA 70112.	Transcontinental Gas Pipe Line Corp., Vermilion Block 16 Field, Vermilion Parish, La.	21.625	15.025
CI73-35 [8] A 7-12-72	Southwest Gas Producing Co., Inc., Suite 2102, 370 Lexington Ave., New York, NY 10017.	Texas Gas Transmission Corp., Terryville-Ruston Area, Lincoln Parish, La.	18.75	15.025
CI73-26 A 7-12-72	Belco Petroleum Corp. and 1971 Oil & Gas Fund, Ltd., 211 First City National Bank Bldg., Houston, TX 77002.	Natural Gas Pipline Co. of America, James Ranch Area, Eddy County, N. Mex.	[5] 32.0	14.65
CI73-28 B 7-12-72	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Natural Gas Pipline Co. of America, Clayton Field, Live Oak County, Tex.	Depleted	
CI73-29 B 7-12-72	Midwest Oil Corp., 1700 Broadway, Denver, CO 80202.	Northern Natural Gas Co., Northeast Gate Field, Harper County, Okla.	Depleted	
CI73-30 B 7-10-72	Cabot Corp. (SW), Post Office Box 1101, Pampa, TX 79065.	United Gas Pipe Line Co., Fostoria Field, Montgomery County, Tex.	Depleted	
CI73-31 B 7-12-72	Felmont Oil Corp., 6 East 43d St., New York, NY 10017.	The Manufacturers Light & Heat Co./Consolidated Gas Supply Corp., Big Mountain Field, Bedford County, Pa.	(9)	
CI73-32 B 6-30-72	Frio Production Co., Operator, et al., Post Office Box 229, Alice, TX 78332.	Valley Gas Transmission, Inc., C. A: Winn Field, Live Oak County, Tex.	(10)	
CI73-33 B 6-29-72	S.S.C. Gas Producing Co., Post Office Box 292, Pettus, TX 78146.	Texas Eastern Transmission Corp., Vela Unit, Bee County, Tex.	Depleted	
CI73-34 B 6-29-72	do	do	Depleted	

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[1] Subject to upward and downward B.t.u. adjustment.
[2] Includes 8.13 cents per Mcf upward B.t.u. adjustment.
[3] Wells sold to Perkins Production Co. for salvage on July 1, 1970.
[4] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. G-12110 to be made pursuant to Harper Oil Co. FPC Gas Rate Schedule No. 3.
[5] Applicant is willing to accept a certificate at an initial rate of 25 cents per Mcf; however, the contract price is 35 cents.
[6] Includes 2.46 cents upward B.t.u. adjustment.
[7] Amoco is willing to accept an initial price of 22.1822 cents @ 14.65 p.s.i.a. (22.75 percent @ 15.025 p.s.i.a.).
[8] Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CS71-1017 to be made pursuant to Brammer Engineering Co., Inc., agent, Operater et al., FPC Gas Rate Schedule No. 4.
[9] Acreage is nonproductive.
[10] Contractual agreement.

[FR Doc.72-12863 Filed 8-14-72;8:50 am]

[Dockets Nos. RI72-227, etc.]

SUN OIL CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

AUGUST 4, 1972.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Ch. I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspenson period, without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI72-227	Sun Oil Co	319	[1] 1-8	El Paso Natural Gas Co. (San Juan Basin Area).	$24,805	7-5-72		6-4-72	[9] 13.2501	[10] 21.33	RI69-285.
	do	[2] 353	[1] 1-13	do	6,212	7-5-72		6-4-72	[9] 14.2677	[10] 21.33	RI72-107.
									[9] 14.0	[10] 21.33	RI72-149.
	do	431	[1] 1-6	do	155,763	7-5-72		6-4-72	[9] 14.0	[9] [10] 21.33	RI72-1315.
				do	733	7-5-72		6-4-72	[9] 14.0	[4] [10] 22.0	RI72-1315.
				do		7-5-72		10-4-72	[9] 14.0	[9] [10] 28.0	RI72-1315.
RI73-21	Mobil Oil Corp	405	4	El Paso Natural Gas Co. (Tocito Dome Field, San Juan County, San Juan Basin Area).	1,971	7-17-72		9-28-72	15.0	16.0	RI70-179.
RI73-22	Atlantic Richfield Co	192	[5] 5	El Paso Natural Gas Co. (San Juan Basin Area):		7-17-72	8-17-72	[13] Accepted			
			6	do	60	7-17-72		9-17-72	15.2869	[12] 21.33	RI69-275.
	do	423	[6] 6	do		7-17-72	8-17-72	[13] Accepted			
			7	do	298	7-17-72		9-17-72	15.2510	[12] 21.33	RI69-383.
RI73-23	Sohio Petroleum Co	100	[11] 9	El Paso Natural Gas Co. (Ignacio Blanco Field, La Plata County, Colo., San Juan Basin).		7-10-72	8-10-72	[13] Accepted			
	do		10	do	34,818	7-10-72		9-10-72	14.0	[10] 21.33	RI69-401.
RI73-24	Getty Oil Co	134	[14] 6	El Paso Natural Gas Co. (San Juan County, San Juan Basin Area):		7-13-72	8-13-72	[13] Accepted			
	do		7	do	2,581	7-13-72		1-13-73	14.0	[10] [11] 22.0	RI69-543.
				do	[15]	7-13-72		1-13-73	14.0	[9] [10] 28.0	RI69-543.
RI73-25	Northwest Production Co	2	4	El Paso Natural Gas Co. (San Juan Basin Area).	148	7-14-72		1-14-73	[17] 21.33	[11] 22.0	RI72-278.
				do	[15]				21.33	[9] [10] 28.0	RI72-278.
RI73-26	Murphy Oil Corp	24	14	El Paso Natural Gas Co. (Basin Dakota Field, San Juan County, San Juan Basin Area).		7-17-72	8-17-72	[13] Accepted			
	do		15		6,700	7-17-72		1-17-73	21.33	[10] 22.0	RI72-169.

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Substitute filing for renegotiated increases to 22 cents and 28 cents per Mcf in order not to exceed rate limit for a 1-day suspension.
[2] Sales in Colorado.
[3] Applicable to acreage dedicated prior to Oct. 1, 1968.
[4] Applicable to production from wells completed prior to June 1, 1970, on acreage dedicated after Oct. 1, 1968 (Supplement No. 3).
[5] Applicable to production from wells completed on or after June 1, 1970.
[6] Rates to 22 cents and 28 cents per Mcf currently suspended in Docket No. RI72-227.
[7] Original increase to 22 cents for acreage dedicated after Oct. 1, 1968, under Supplement No. 3 and to 28 cents are not being fractured.
[8] Consistent with El Paso's San Juan Basin renegotiation program.
[9] Applicant fractured renegotiated rate of 22 cents in order not to exceed rate limit for a 1-day suspension.
[10] Subject to B.t.u. adjustment.
[11] Consistent with El Paso's San Juan Basin contract renegotiation program.
[12] For gas from wells completed before June 1, 1970.
[13] Not used.
[14] No production at present time.
[15] Supersedes in total prior documents comprising Rate Schedule No. 21 and Supplements Nos. 1-13.
[16] Accepted to be effective on the dates shown in the "Effective Date" column.
[17] Suspended in Docket No. RI72-278 until Aug. 6, 1972.

The proposed increases of Sun Oil Co. (except for Sun's proposed rate of 28 cents per Mcf under its FPC Gas Rate Schedule No. 431), Atlantic Richfield Co., and Mobil Oil Corp. are suspended for 1 day because they do not exceed the ceiling for the vintage of gas involved.[1]

All the remaining proposed increases exceed the corresponding rate filing limitations imposed in southern Louisiana and therefore are suspended for 5 months.

With the exception of Northwest Production Corp. and its purchaser, there is no known affiliation between buyer and seller.

All of the producers' proposed rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR, 2.56).

[1] The 1 day suspension for Sun's proposed substitute increases is from the expiration of the 60-day notice period following the filing date of Sun's original higher increases.

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1 et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Per-

mian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act [15 U.S.C. 717c(d)] in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate, and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-12622 Filed 8-14-72;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST EMPIRE STATE CORP.

Acquisition of Bank

First Empire State Corp., Buffalo, N.Y., has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the First National Bank of Highland, Highland, N.Y. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than August 31, 1972.

Board of Governors of the Federal Reserve System, August 8, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-12857 Filed 8-14-72;8:49 am]

VALLEY AGENCY CO.

Formation of Bank Holding Company and Continuation of Insurance Agency Activities

Valley Agency Co., Valley, Nebr., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 79 percent of the voting shares of Bank of Valley, Valley, Nebr. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Valley Agency Co. has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to continue to engage in insurance agency activities. Notice of the application was published on July 13, 1972, in the Douglas County Gazette, a newspaper circulated in Douglas County, Nebr.

Applicant states that it engages in the activities of a general insurance agency in a community with a population of less than 5,000. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal filed pursuant to § 4(c)(8) can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views on these applications or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 7, 1972.

Board of Governors of the Federal Reserve System, August 8, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-12858 Filed 8-14-72;8:49 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations Temporary Reg. F-149]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the Federal Government in a telecommunications service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Washington Utilities and Transportation Commission in a proceeding (Cause No. U-72-30) involving intrastate rates for telecommunications services provided by Pacific Northwest Bell Telephone Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

AUGUST 8, 1972.

[FR Doc.72-12859 Filed 8-14-72;8:50 am]

SMALL BUSINESS ADMINISTRATION

[MESBIC License Application No. 06/06-5160]

GULF SOUTH VENTURE CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Gulf South Venture Corp. (Applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)).

The officers and directors of the applicant are as follows:

Walter B. Stuart III, 5672 Rosemary Place, New Orleans, LA 70124, chairman of the board and chief exective officer.
Thomas E. Smith, Jr., 1470 Arabella Street, New Orleans, LA 70115, vice chairman, director.
Robert P. Aulston III, 5720 Prince Lane, New Orleans, LA 70124, president, director.
Billy E. Mitchum, c/o First National Bank of Commerce, 210 Baronne Street, New Orleans, LA 70112, secretary-treasurer.
Melvin H. Boeger, 1340 Pine Street, New Orleans, LA 70115, director.
Raoul A. Colomb, 1823 Schnell Drive, Arabi, LA 70032, director.
Frank S. Craig, Fidelity National Bank of Baton Rouge, Post Office Box 1305, Baton Rouge, LA 70821, director.
James H. Dumesnil, 600 Landry Drive, Lafayette, LA 70501, director.
F. Ben James, Jr., Til, James & Company, Inc., Post Office Box 1305, Ruston, LA 71270, director.
A. R. Johnson, Guaranty Bank & Trust Co. of Alexandria, Post Office Box 351, Alexandria, LA 71301, director.
William J. Oldenburg, Jr., Route 1, Box 234, Covington, LA 70433, director.
Paul Spencer, 1800 Pere Marquette Building, New Orleans, LA 70112, director.
Arthur S. Stevens, 411 Sharon Drive, New Orleans, LA 70124, director.
Robert E. Van Arsdall, 310 Jewel Street, New Orleans, LA 70124, director.

The applicant, a Louisiana corporation with its principal place of business located at 511 Richards Building, 837 Gravier Street, New Orleans, LA 70112, will begin operations with $600,000 of paid-in capital, consisting of 1,200 shares of common stock. All of the issued and outstanding stock will be owned by nine local stockholders, each owning less than 10 percent, except for Shell Oil Co., First National Bank of Commerce, and Pan American Life Insurance Co., each of which owns approximately 17 percent of applicant's outstanding stock.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise systems is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in New Orleans, La.

Dated: August 4, 1972.

CLAUDE ALEXANDER,
Associate Administrator for Operations and Investment.

[FR Doc.72-12888 Filed 8-14-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice 53]

ASSIGNMENT OF HEARINGS

AUGUST 10, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-136383, Recreational Transportation for the Aged, Inc., now being assigned hearing October 2, 1972 (2 days) at New York City, N.Y., in a hearing room later to be designated.
MC-34752 Sub 5, Lincoln Coach Co., Inc., now being assigned hearing October 4, 1972 (3 days) at Stamford, Conn., in a hearing room to be later designated.
MC 2860 Sub 111, National Freight, Inc., application dismissed.
MC 116133 Sub 8, Pollard Delivery Service, Inc., now assigned August 21, 1972, at Washington, D.C., postponed to October 3, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-12870 Filed 8-14-72;8:50 am]

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 10, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42305—*Commodity rates from and to East Camden, Ark.* Filed by Southwestern Freight Bureau, agent (No. B-347), for interested rail carriers. Rates on property moving on point-to-point commodity rates, from and to East Camden, Ark., on the East Camden and Highland Railroad Co., to and from points in the United States and Canada.

Grounds for relief—New station.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-12887 Filed 8-14-72;8:52 am]

[Notice 112]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 10, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 108207 (Sub-No. 353 TA), filed July 26, 1972. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street (75207), Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rabbit, chicken, turkey, dog, horse, and bovine sera and tissues*, from Los Angeles, Calif., to Rogers, Ark., and from Rogers, Ark., to points in Texas, Oklahoma, Kansas, Missouri, Nebraska, Iowa, Minnesota, Wisconsin, Illinois, Michigan, Indiana, Ohio, and Memphis, Tenn., for 150 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Pel-Freez Biologicals, Inc., Post Office Box 68, Rogers, AR 72756. Send protests to: District Supervisor, E. K. Willis, Jr., Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 113908 (Sub-No. 230 TA), filed July 26, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Post Office Box 3180, Springfield, MO 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal and poultry feed ingredients*, in bulk, in tank vehicles, from Verona, Mo., to Portland, Oreg., and Stockton, Calif., for 180 days. Supporting shipper: Hoffman-Taff, Inc., Post Office Box 1246, S.S.S., Springfield, MO 65805. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 124212 (Sub-No. 66 TA), filed July 28, 1972. Applicant: MITCHELL TRANSPORT, INC., 2111 Chagrin Boulevard, Post Office Box 22183, Cleveland, OH 44122. Applicant's representative: John Kundtz, National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from the plantsite of Lehigh Portland Cement Co. located at Pasco, Wash., to Boardman, Pendleton, Hermiston, Umatilla, and Milton-Freewater, Oreg., for 180 days Supporting shipper: Lehigh Portland Cement Co., 718 Hamilton, Street, Allentown, Pa. 18105. Send protests to: Franklin D. Ball, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 133977 (Sub-No. 13 TA) (Correction), filed June 22, 1972, published in the FEDERAL REGISTER issue of July 28, 1972, corrected and republished in part as corrected this issue. Applicant: GENE'S, INC., 10115 Brookville Salem Road, Clayton, OH 45315. Applicant's representative: Gene Cox (same address as above). NOTE: The purpose of this partial republication is to show the correct spelling of applicant as *Gene's*, Inc., in lieu of Cene's, Inc., shown erroneously in previous publication. The rest of the application remains the same.

No. MC 136066 (Sub-No. 5 TA), filed July 27, 1972. Applicant: G. P. SULLIVAN COMPANY, 1808 South Laramie Ave., 2000 South Western Ave. 60608, Chicago, IL 60650. Applicant's represent Chicago, IL 60650. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* as is dealt in by retail department stores, between the facilities of J. C. Penney Co., Inc., located at Chicago and its commercial zone and Elk Grove Village, Ill., on the one hand, and, on the other, points in La Porte, Starke, Pulaski, Newton, and Jasper Counties, Ind., under continuing contract with J. C. Penney Co., Inc., for 180 days. Supporting shipper: J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019. Send protests to: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 136797 TA (Correction), filed June 9, 1972, published in the FEDERAL REGISTER issue of July 1, 1972, corrected and republished in part as corrected this issue. Applicant: CHARLES E. BRADLEY AND J. M. POWERS, a partnership, doing business as BRADLEY & POWERS, Depot Road, Post Office Box 286, Paintsville, KY 41240. Applicant's representative: J. M. Powers (same address as above). NOTE: The purpose of this partial republication is to include Morgan County, Ky., as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 136927 TA, filed July 26, 1972. Applicant: PETERSEN NORTHWEST CORPORATION, 21841 Pacific Highway S., Post Office Box 3156, Midway, WA 98031, Seattle, WA 98188. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular or factory constructed buildings or substantial sections thereof*, in truckaway service, from points in Washington to points in Oregon, Idaho, California, and Montana and within said States, for 180 days. Supporting shipper: Modular Pacific Corp., 9407 East Marginal Way South, Seattle, WA 98108. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-12871 Filed 8-14-72;8:50 am]

[Exemption 17; Ex Parte 241]

SEABOARD COAST LINE RAILROAD CO.

Exemption From Mandatory Car Service Rule

It appearing that there is an emergency movement of military impedimenta from Fort Bragg, N.C., to Homestead Air Force Base, Fla.; that the originating carrier has insufficient cars of suitable ownership immediately available for loading with this traffic; that sufficient cars of other ownerships are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Seaboard Coast Line Railroad Co., the railroads designated by the Car Service Division are authorized to move to, and the Seaboard Coast Line Railroad Co. is authorized to accept, assemble, and load empty cars with military impedimenta from Fort Bragg, N.C., to Homestead Air Force Base, Fla., regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective August 9, 1972.

Expires August 25, 1972.

Issued at Washington, D.C., August 9, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-12872 Filed 8-14-72;8:50 am]

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